# POWER PURCHASE AGREEMENT

## BETWEEN

## ..... ELECTRICITY SUPPLY COMPANY LIMITED (ESCOM)

## AND

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## FOR

## Supply of ..... MW (AC) of Power from Grid Connected Solar PV plants for Solarization of feeders at ..... Sub-station through RESCO Mode under Mukhya Manthri Soura Krishi Yojane (CM-SKY)"

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## POWER PURCHASE AGREEMENT

This Power Purchase Agreement (PPA) (hereinafter shall be referred to as **"Agreement"**) is entered into on this the _____ day of ____ month, of ____ year

**AMONGST**

1. …….. Electricity Supply Company Limited, a Company incorporated under the Indian Companies Act, 1956 having its registered office at K.R.Circle, Bengaluru (hereinafter shall be referred to as "**ESCOM**"), which expression shall, unless it be repugnant to the context or meaning thereof, include it's administrators, successors, and assigns;

**AND**

2. _____, a company incorporated under the provisions of the …… [Companies Act, [1956/2013]/Limited Liability Partnership (LLP) Act, 2008/Partnership Act, 1932/Sole Proprietor] and having its registered office at _____, (hereinafter shall be referred to as "**SPG**") which expression shall, unless repugnant to the context or meaning thereof, include its successors and permitted assigns and substitutes of the Other Part.

WHEREAS:

A. The Government of Karnataka in its Budget 2026-27, has announced Mukhya Manthri Soura Krishi Yojane (CM-SKY) wherein GoK intends to provide energy security to the farmers by setting up 3000MW distributed solar power plants through RESCO mode. The Energy Department, Government of Karnataka (GoK), through its proceedings No. Energy/303/VSC/2025 dated 13.08.2025, has issued directions to invite tenders under the Non-CFA mode.

B. ESCOM is undertaking feeder-level solarization within its jurisdiction.

C. ESCOM is the implementing Feeder Level Solarisation for facilitating the selection process for procurement of ……MW of the power generated from Grid connected solar PV systems for Feeder level solarization through RESCO Mode in the jurisdiction of ESCOM area.

D. Pursuant thereto, ESCOM had accordingly invited proposals by its "**Request For Proposal (RFP)**" dated _____prescribed the technical, commercial terms and conditions for/ selection of Bidders for undertaking development of Grid connected solar PV systems for Feeder level solarization through RESCO Mode. In this regard, ESCOM had received proposals from certain bidders including, inter alia, the {the single business entity/Consortium comprising _____, _____ and _____ (collectively the "**Consortium"**) with _____as its lead member (the "**Lead Member**")}.

E. After evaluation of the Proposal received, ESCOM had accepted the bid of the {single business entity/Consortium} ["**Selected Bidder ……**"] for development of [_____] MW (AC) of Solar PV Project (…*Also specify the name of solar technology*…) to evacuate at _____ (name of the SS) in the jurisdiction of ESCOM with google coordinates of the location as _____ (Solar Plant location) and issued its Letter of Award No _____, dated _____ (hereinafter called the "**LOA**") to the "**Selected Bidder**" requiring, inter alia, the execution of this Agreement.

F. {The single business entity/Consortium has since promoted and incorporated the SPG (**"Special Purpose Vehicle" or "SPV"**), in accordance with the terms of RFP and has requested ESCOM through a letter bearing number ___ dated ___ to accept the SPG as the entity which shall undertake and perform the obligations and exercise the rights of the Selected Bidder under the LOA, including the obligation to enter into this Agreement pursuant to the LOA for executing the Project.

G. By its letter dated _____, the SPG has also joined in the said request of the single business entity/Consortium to ESCOM to accept it as the entity which shall undertake and perform the obligations and exercise the rights of the single business entity/Consortium including the obligation to enter into this Agreement pursuant to the LOA. The SPG has further represented to the effect that it has been promoted by the single business entity/Consortium for the purposes hereof.}

H. ESCOM has agreed to the said request of the SPG (single business entity~~/Consortium~~) and has accordingly agreed to enter into this Agreement with the SPG for the execution of the Project, subject to and on the terms & conditions set forth hereinafter.

I. ESCOM acknowledges that simultaneously with the execution of this Agreement, the SPG has submitted Bank Guarantees towards Performance Security for the amount and in the manner set out in Clause 4.4 (a).

NOW, THEREFORE, in consideration of the foregoing and the respective covenants and agreements set forth in this Agreement, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound hereby, the Parties agree as follows:

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## ARTICLE 1: DEFINITION AND INTERPRETATION

### 1.1. Definitions

The words and expressions beginning with capital letters and defined in this Agreement (including those in Article 21) shall, unless the context otherwise requires, have the meaning ascribed thereto herein, and the words and expressions defined in the Schedules and used therein shall have the meaning ascribed thereto in the Schedules.

### 1.2. Interpretation

1.2.1. In this Agreement, unless the context otherwise requires,

a) references to any legislation or any provision thereof shall include amendment or re-enactment or consolidation of such legislation or any provision thereof so far as such amendment or re-enactment or consolidation applies or is capable of applying to any transaction entered into hereunder;

b) references to laws of Karnataka, laws of India or Indian law or regulation having the force of law shall include the laws, acts, ordinances, rules, regulations, bye laws or notifications which have the force of law in the territory of India and as from time to time may be amended, modified, supplemented, extended or re-enacted;

c) references to a **"person"** and words denoting a natural person shall be construed as a reference to any individual, firm, company, corporation, society, trust, Government, state or agency of a state or any association or partnership (whether or not having separate legal personality) of two or more of the above and shall include successors and assigns;

d) the table of contents, headings or sub-headings in this Agreement are for convenience of reference only and shall not be used in, and shall not affect, the construction or interpretation of this Agreement;

e) the words **"include"** and **"including"** are to be construed without limitation and shall be deemed to be followed by "without limitation" or "but not limited to" whether or not they are followed by such phrases;

f) references to **"construction" or "building" or "installation"** include, unless the context otherwise requires, investigation, design, developing, engineering, procurement, delivery, transportation, installation, processing, fabrication, testing, commissioning and other activities incidental to the construction, and "**construct**" or "**build**" or "**install**" shall be construed accordingly;

g) references to "**development**" include, unless the context otherwise requires, construction, augmentation, upgradation and other activities incidental thereto, and "develop" shall

be construed accordingly;

h) any reference to any period of time shall mean a reference to that according to Indian Standard Time;

i) any reference today shall mean a reference to a calendar day;

j) references to a **"business day"** shall be construed as a reference to a day (other than a Sunday) on which Banks in Bengaluru generally open for business;

k) any reference to month shall mean a reference to a calendar month as per the Gregorian calendar;

l) references to any date or period shall mean and include such date, period as may be extended pursuant to this Agreement;

m) any reference to any period commencing **"from"** a specified day or date and **"till"** or **"until"** a specified day or date shall include both such days or dates; provided that if the last day of any period computed under this Agreement is not a business day, then the period shall run until the end of the next business day;

n) the words importing singular shall include plural and vice versa;

o) references to any gender shall include the other and the neutral gender;

p) **"lakh"** means a hundred thousand (100,000) and **"crore"** means ten million (10,000,000);

q) **"indebtedness"** shall be construed so as to include any obligation (whether incurred as principal or surety) for the payment or repayment of money, whether present or future, actual or contingent;

r) references to the **"winding-up"**, **"dissolution"**, **"insolvency"**, or **"reorganisation"** of a company or corporation shall be construed so as to include any equivalent or analogous proceedings under the law of the jurisdiction in which such company or corporation is incorporated or any jurisdiction in which such company or corporation carries on business including the seeking of liquidation, winding-up, reorganization, dissolution, arrangement, protection or relief of debtors;

s) save and except as otherwise provided in this Agreement, any reference, at any time, to any agreement, deed, instrument, licence or document of any description shall be construed as reference to that agreement, deed, instrument, licence or other document as amended, varied, supplemented, modified or suspended at the time of such reference; provided that this Sub-clause shall not operate so as to increase liabilities or obligations of ESCOM hereunder or pursuant hereto in any manner whatsoever;

t) any agreement, consent, approval, authorization, notice, communication, information or report required under or pursuant to this Agreement from or by any Party shall be valid and effective only if it is in writing under the hand of a duly authorized representative of such Party, as the case may be, in this behalf and not otherwise;

u) the Schedules and Recitals to this Agreement form an integral part of this Agreement and will be in full force and effect, as though they were expressly set out in the body of this Agreement;

v) references to Recitals, Articles, Clauses, Sub-clauses or Schedules in this Agreement shall, except where the context otherwise requires, mean references to Recitals, Articles, Clauses, Sub-clauses and Schedules of or to this Agreement, and references to a Paragraph shall, subject to any contrary indication, be construed as a reference to a Paragraph of this Agreement or of the Schedule in which such reference appears;

w) the damages payable by either Party to the other of them, as set forth in this Agreement, whether on per diem basis or otherwise, are mutually agreed genuine pre-estimated loss and damage likely to be suffered and incurred by the Party entitled to receive the same and are not by way of penalty (the "**Damages**"); and

x) time shall be of the essence in the performance of the Parties' respective obligations. If any time period specified herein is extended, such extended time shall also be of the essence.

1.2.2. Unless expressly provided otherwise in this Agreement, any Documentation required to be provided or furnished by the SPG to ESCOM shall be provided free of cost and in three copies, and if ESCOM is required to return any such Documentation with their comments and/or approval, they shall be entitled to retain two copies thereof.

1.2.3. The rule of construction, if any, that a contract should be interpreted against the parties responsible for the drafting and preparation thereof, shall not apply.

1.2.4. Any word or expression used in this Agreement shall, unless otherwise defined or construed in this Agreement, bear its ordinary English meaning and, for these purposes, the General Clauses Act 1897 shall not apply.

### 1.3. Measurements and arithmetic conventions

All measurements and calculations shall be in the metric system and calculations done to two (2) decimal places, with the third digit of five (5) or above being rounded up and below five (5) being rounded down.

### 1.4. Priority of agreements, clauses and schedules

1.4.1. This Agreement, and all other agreements and documents forming part of or referred to in this Agreement are to be taken as mutually explanatory and, unless otherwise expressly provided elsewhere in this Agreement, the priority of this Agreement and other documents and agreements forming part hereof or referred to herein shall, in the event of any conflict between them, be in the following order:

a) this Agreement; and

b) all other agreements and documents forming part hereof or referred to herein;

i.e the Agreement at (a) above shall prevail over the agreements and documents at (b) above.

1.4.2. Subject to provisions of Article 1.4.1, in case of ambiguities or discrepancies within this Agreement, the following shall apply:

a) between two or more Clauses of this Agreement, the provisions of a specific Clause relevant to the issue under consideration shall prevail over those in other Clauses;

b) between the Clauses of this Agreement and the Schedules, the Clauses shall prevail and between Schedules and Annexes, the Schedules shall prevail;

c) between any two Schedules, the Schedule relevant to the issue shall prevail;

d) between any value written in numerals and that in words, the latter shall prevail.

1.4.3. Provided that any substitution under this Agreement can only be made with the prior consent of ESCOM including the condition that the Selected Bidder meets the eligibility requirements of Request For Proposal (RFP) issued by ESCOM and accepts the terms & conditions of this Agreement.

1.4.4. RFP documents including its Amendment and Clarifications will be integral part of PPA. PPA & RFP shall be read in harmonious manner.

1.4.5. The provisions of RFP Documents [including all clarifications and/or amendments] / this agreement shall always prevail over any other documents in case of contradiction.

**1.5. Order of priority in Application**

In case of inconsistencies between the agreement(s) executed between the Parties, applicable Law including rules and regulations framed thereunder, the order of priority as between them shall be the order in which they are placed below:

(i) RFP issued by ESCOM including its Amendments and Clarifications
(ii) Applicable Law, rules and regulations framed thereunder; and
(iii) The grid code

## ARTICLE 2: SCOPE OF THE PROJECT

### 2.1. Scope of the Project

The scope of the Project (the **"Scope of the Project")** shall mean and include, during the term of this Agreement:

a) Design, Survey, Supply, Installation, Testing, Commissioning, Operation & Maintenance of Grid connected distributed solar power plants for Solarization of feeders at Sub-station (SS) level, its associated 11kV line to connect the plant with concerned sub-station and Remote Monitoring System (RMS) of solar power plants through RESCO mode for 25 years Power Purchase Agreement (PPA) under Mukhya Manthri Soura Krishi Yojane (CM-SKY), to the extent of Contracted capacity.

b) The SPG may be allowed to change the SS once, due to non-availability of land, subjected to the technical feasibility by KPTCL in the newly identified SS, within 90 (Ninety) days from the date of issuance of LoA.

c) Performance and fulfillment of all other obligations of the SPG in accordance with the provisions of this Agreement and matters incidental thereto or necessary for the performance of any and/or all of the obligations of the SPG under this Agreement.

## ARTICLE 3: TERM OF AGREEMENT

### 3.1. Effective Date

This Agreement shall come into effect from the date of signing of PPA and shall be considered as deemed to have been approved by the Commission.

### 3.2. Term of Agreement

This Agreement shall subject to clause 3.3 be valid for a term of 25 (Twenty Five) years commencing from the COD and ends on the expiry date. After expiry of PPA, the parties willing to extend the PPA shall be decided within 90 days prior to the expiry date of PPA on mutually agreed terms and conditions.

### 3.3. Early Termination

This Agreement shall terminate before the Expiry Date, if either ESCOM or SPG terminates the Agreement, pursuant to Article 16 of this Agreement.

### 3.4. Survival

The expiry or termination of this Agreement shall not affect any accrued rights, obligations and liabilities of the Parties under this Agreement, including the right to receive Penalty as per the terms of this Agreement, nor shall it affect the survival of any continuing obligations for which this Agreement provides, either expressly or by necessary implication, which are to survive after the Expiry Date or termination including those under Article 14 (Force Majeure), Article 16 (Termination), Article 17 (Liability and Indemnification), Article 18 (Governing Law and Dispute Resolution), Article 20 (Miscellaneous), and other Articles and Schedules of this Agreement which expressly or by their nature survive the Term or termination of this Agreement shall continue and survive any expiry or termination of this Agreement.

## ARTICLE 4: CONDITION PRECEDENT

### 4.1. Conditions Precedent

Save and except as expressly provided in Article 14 or unless the context otherwise requires, the respective rights and obligations of the Parties under this Agreement shall be subject to the satisfaction in full of the conditions precedent specified in this Article 4 (the **"Conditions Precedent")** by the SPG within fifteen (15) days before SCOD/COD, unless such completion is affected by any Force Majeure event, or if any of the activities is specifically waived in writing by ESCOM.

### 4.2. Conditions Precedent for the SPG

The Conditions Precedent is required to be satisfied by the SPG shall be deemed to have been fulfilled when the SPG shall have:

a) delivered to ESCOM from SPG confirmation, in original, of compliance with the equity lock-in condition set out in 5.2; and

b) delivered to ESCOM a legal opinion from the legal counsel of the SPG with respect to the authority of the SPG to enter into this Agreement and the enforceability of the provisions thereof.

4.2.1. SPG shall make all reasonable endeavours to satisfy the Conditions Precedent within the time stipulated and ESCOM shall provide to the SPG all the reasonable cooperation as may be required to the SPG for satisfying the Conditions Precedent.

4.2.2. The SPG shall provide at least thirty (30) days advance preliminary written notice and at least fifteen (15) days advance final written notice to ESCOM of the date on which it intends to synchronize the Power Project to the Grid System.

### 4.3. Damages for delay by the SPG

In the event that the SPG does not fulfill any or all of the Conditions Precedent, set forth in Clause 4.2 within fifteen (15) days before SCOD/COD, whichever is earlier and the delay has not occurred for any reasons attributable to ESCOM or due to Force Majeure, the SPG shall pay to ESCOM, Damages in an amount calculated at the rate of 0.2% (zero point two per cent) of the Performance Security for each day's delay until the fulfillment of such Conditions Precedent, subject to a maximum period of fifteen (15) days. For such delays in fulfillment of Conditions Precedent, the Synchronization & Commissioning may delay (non-commissioning within stipulated time) and ESCOM will not be held responsible; under the condition **"ESCOM Event of Default"**.

### 4.4. Performance Security

a) For due and punctual performance of its obligations under this Agreement, relating to the Project, the SPG has delivered to ESCOM, simultaneously with the execution of this Agreement, an irrevocable and revolving bank guarantee from a scheduled nationalized bank acceptable to ESCOM for an amount of INR _____ (Rupees - _____ only) ("**Performance Security**). The Performance Security is furnished to

ESCOM in the form of Three (3) Bank Guarantees in favour of "The General Manager(DSM), ESCOM", as per the format provided in Schedule 3 and having validity up to twenty Seven (27) months from the date of issue of LOA with a claim period of additional two (2) months. The details of the bank guarantees furnished towards the Performance Security are given below;

i) Bank Guarantee No._____ dated _____ for an amount of INR - _____ (Rupees _____ only) issued from _____ Bank for 20% of the Performance Security

ii) Bank Guarantee No._____ dated _____ for an amount of INR - _____ (Rupees _____ only) issued from _____ Bank for 40% of the Performance Security

iii) Bank Guarantee No._____ dated _____ for an amount of INR - _____ (Rupees _____ only) issued from _____ Bank for 40% of the Performance Security

**b) Appropriation of Performance Security**

Upon occurrence of a SPG Default or failure to meet the Conditions Precedent by the SPG, ESCOM shall, without prejudice to its other rights and remedies hereunder or in law, shall be entitled to encash and appropriate the relevant amounts from the Performance Security as Damages for such SPG Default or Conditions Precedent. Upon such encashment and appropriation from the Performance Security, the SPG shall, within fifteen (15) days thereof, replenish, in case of partial appropriation, to its original level of the Performance Security, and in case of appropriation of the entire Performance Security, provide a fresh Performance Security, as the case may be, and the SPG shall, within the time so granted, replenish or furnish fresh Performance Security as aforesaid, failing which, ESCOM shall be entitled to terminate this Agreement in accordance with Article 16.1 and shall be entitled to encash and appropriate the relevant amounts from the Performance Security as damages for SPG default **for failure** to meet the conditions precedent.

**c) Release of Performance Security**

Subject of other provisions of this Agreement, ESCOM shall release the performance Security after twelve (12) months from the date of commissioning of solar power plant after taking into account any penalties due to delay in commissioning as per RFP conditions and PPA.

The release of the Performance Security shall be without prejudice to other rights of ESCOM under this Agreement.

## ARTICLE 5: OBLIGATIONS OF THE SPG

### 5.1. Obligations of the SPG

5.1.1. Subject to and on the terms and conditions of this Agreement, the SPG shall at its own cost and expense;

a) procure finance for and undertake the Design, Survey, Supply, Installation, Testing, Commissioning, Operation & Maintenance of Grid connected distributed solar power plants for Solarization of feeders at SS level, its associated 11kV line to connect the plant with concerned sub-station and Remote Monitoring System (RMS) of solar power plants and completing of the Power Project in accordance with the Applicable Law and Grid Code, observe, fulfill, comply with and perform all its obligations set out in this Agreement or arising hereunder;

b) make arrangements for Land & associated infrastructure for development of the project and for connectivity with SS; SPG shall produce the documentary evidence of having the clear title and possession of the land required for the Project in the name of SPG and evidence of Non Agriculture (NA) conversion issued from competent authority as per the requirements set out in Schedule 1;

c) comply with all Applicable Laws and obtain applicable Consents, Clearances and Permits (including renewals as required) in the performance of its obligations under this Agreement and maintaining all Applicable Permits in full force and effect during the Term of this Agreement;

d) obtain power evacuation approval from KPTCL/ESCOM as the case may be;

e) connect the Power Project switchyard with the Interconnection Facilities at the Delivery Point and supply the power to the extent of contracted capacity to the grid;

f) commence supply of power to the Contracted Capacity to ESCOM not later than the SCOD and continue the supply of power throughout the term of the Agreement in accordance with the provisions of this agreement;

g) own the Power Project throughout the Term of Agreement and keep it free and clear of encumbrances, except those expressly permitted under Article 19;

h) Comply with the equity lock-in conditions set out in Clause 5.2 of this Article;

i) be responsible for all payments related to any taxes, cess, duties or levies imposed by the Government Instrumentalities or competent statutory authority on land, equipment, material or works of the project to or on the electricity consumed by the Project or by itself or on the income or assets owned by it; and

j) Co-ordinating and dealing with ESCOM authorities, and other authorities if any, in all respects in regard to declaration of availability, scheduling and dispatch of Power and due compliance with deviation and settlement mechanism and the applicable Grid code/State Regulations.

5.1.2. The SPG shall discharge its obligations in accordance with Good Industry Practice and as a reasonable and prudent person.

5.1.3. The SPG shall, at its own cost and expense, in addition to and not in derogation of its obligations elsewhere set out in this Agreement;

a) make, or cause to be made, necessary applications to the relevant government agencies with such particulars and details, as may be required for obtaining Applicable Permits and obtain and keep in force and effect such Applicable Permits in conformity with the Applicable Laws;

b) procure, as required, the appropriate proprietary rights, licenses, agreements and permissions for materials, methods, processes and systems used or incorporated into the Power Project;

c) make reasonable efforts to maintain harmony and good industrial relations among the personnel employed by it or its Contractors in connection with the performance of its obligations under this Agreement;

d) ensure and procure that its Contractors comply with all Applicable Permits and Applicable Laws in the performance by them of any of the SPG's obligations under this Agreement; and

e) not do or omit to do any act, deed or thing which may in any manner be violative of any of the provisions of this Agreement.

f) shall comply the insurances as prescribed in Article 11 of this agreement.

**5.2. Equity Lock-in Conditions**

a) The shareholding as on the Effective Date is as follows:

| Name of Shareholders | Description of Shareholding |
|---|---|
| | |
| | |
| | |

b) The SPG having been set up for the sole purpose to exercise the rights and observing and performing its obligations and liabilities under this Agreement, the SPG hereby undertakes and agrees to comply with the following lock-in conditions:

In case the Selected Bidder is a Consortium then,

(i) Members of the Consortium shall collectively hold at least 51% (fifty one percent) of subscribed and paid up equity share capital of the SPG at all times until first anniversary of the commercial operation date of the Project.

(ii) Lead Member shall have 26% (twenty six percent) shareholding of the SPV until first anniversary of the commercial operation date of the Project.

**or**

In case the Selected Bidder is a single entity,

The Selected Bidder shall hold at least 51% (fifty one percent) of subscribed and paid up equity share capital of the SPG, until first anniversary of the commercial

operation date of the Project. This condition is applicable only in case the single business entity incorporates an SPV to execute the PPA and implement the Project.

c) In the event of non-compliance of the above, the same shall constitute an event of default by SPG and ESCOM shall be entitled to terminate this Agreement in accordance with Article 16.

**5.3. Information regarding Interconnection Facilities**

The SPG shall be required to obtain all information with regard to the Interconnection Facilities as is reasonably necessary to enable it to design, install and operate all interconnection plant and apparatus on the SPG's side of the Delivery Point to enable delivery of electricity at the Delivery Point. The whole and sole responsibility of interconnection approvals or any approvals in this regard vest with the SPG. Delay in this regard will be attributable to SPG.

**5.4. Connectivity to the grid**

The SPG shall be responsible for power evacuation from the Power Project to the nearest Delivery Point(s) of SS.

**5.5. Purchase and sale of Contracted Capacity**

Subject to the terms and conditions of this Agreement, the SPG undertakes to sell to ESCOM during the PPA tenure and ESCOM subject to Clause 5.6 below, undertakes to purchase the power supplied at the Delivery Point(s) corresponding to the Contracted Capacity.

The SPG does not sell solar power to any other buyer or is not allowed to go for open access at any point of time during the PPA tenure with third party other than ESCOM .

In case SPG violates the same, SPG is also liable to pay to ESCOM, for non-supply of agreed contracted energy for the balance PPA period, at the rate of prevailing average power purchase cost.

**5.6. Right to Contracted Capacity & Energy**

ESCOM, at any time during a Contract Year, shall be obliged to purchase energy from the SPG of _____ Million kWh (MU) [Insert value of energy generated] corresponding to the declared CUF of 19% (Nineteen percent) for solar PV project.

During the first 10 years after COD, the minimun generation shall not be less than -15% of declared CUF _____Million kWh (MU) [Insert value of energy generated] of the Power Project, while after 10 years, the minimun generation shall not be less than -20% of declared CUF _____Million kWh (MU) [Insert value of energy generated].

If the generation is found to be below the prescribed limits as mentioned in this clause on account of reasons solely attributable to SPG, the SPG shall be liable for non-fulfilment of its obligation. The liability shall be levied by ESCOM, for non-supply of Power by the SPG.

If the SPG failed to supply minimum energy on account of reasons solely attributable to it other than Article 14, the SPG shall be liable to compensate the ESCOM for shortfall in minimum generation at the rate agreed in PPA.

For any excess generation and any generation below the prescribed limits, "Prorata basis may be adopted for the first year from the date of COD".

In case of purchase of any excess energy:

ESCOM, at any time during a Contract Year, shall be obliged to purchase +10% of energy, corresonding to annual maximum CUF of 19%, from the Solar Power Generator and shall be charged at 75% rate equivalent to PPA tariff or any other tariff determined by KERC, whichever is less, provided first right of refusal will vest with ESCOM.

Purchase of any excess energy, beyond +10% energy generated corresponding to an annual maximum CUF of 19%, shall be deemed to have been supplied to ESCOM at free of cost.

In case at any point of time, the peak of capacity reached is higher than the contracted capacity and causes disturbance in the system at the point where power is injected, the SPG will have to forego the excess generation and reduce the output to the contract capacity and shall also have to pay the penalty/charges (if applicable) as per applicable regulations.

In case of off-take constraints due to transmission infrastructure or grid unavailability, the SPG and ESCOM shall follow the forecasting and scheduling process as per the KERC/IEGC regulations.

*In case of off-take constraints due to Grid Unavailability at 11 kV bus level of sub-station:*

In case of off-take constraints due to Grid Unavailability in a contract year, however, there can be some periods where the Project can generate power but due to temporary transmission unavailability, the power is not evacuated, for reasons not attributable to the SPG. In such cases, subject to the submission of documentary evidences from the competent authority, the generation compensation shall be restricted to the following and there shall be no other claim, directly or indirectly against [redacted]

| *Duration of Grid unavailability* | *Provision for Generation Compensation* |
|---|---|
| *Grid unavailability excess of 5% in a contract year as defined in the PPA (only period from 8 am to 6 pm to be counted):* | *Generation Loss = [(Average Generation per hour during the Contract Year) × (number of hours of grid unavailability during the Contract Year)]* |
| | *Where, Average Generation per hour during the Contract Year (kWh) = Total generation in the Contract Year (kWh) ÷ Total hours of generation in the Contact year.* |

The excess generation by the SPG equal to this generation loss shall be procured by ESCOM at the PPA tariff so as to offset this loss in the succeeding 3 (three) Contract Years.

In case of any off-take constraints due to Back down by SLDC:

The SPG shall follow the forecasting and scheduling of power as per the Regulations issued from appropriate commission from time to time. The Government of India, as per Clause 5.2(u) of the Indian Electricity Grid Code (IEGC), encourages a status of "must-run" to solar power projects.

In case of system constraints due to technical problems and back down instruction given by SLDC for safety and security of the Grid, ESCOM shall not obliged to pay any damages / compensation to the SPG.

### 5.7. Extensions of Time

5.7.1. In the event that the SPG is prevented from achieving the progress in fulfilling the Conditions Precedent within the time stipulated in the PPA, ESCOM may grant extension of time with penalty as stipulated in Article 4.3 of this PPA. Such extension of time by ESCOM shall not affect the commissioning of the Project within the SCOD. In case the SPG delays in submission of Conditions Precedent document within specified/extended time period (only for Conditions Precedent), ESCOM will not be responsible on timely commissioning of the project within the PPA scheduled commissioning date.

In the event that the SPG is prevented from commissioning of the Project within the time stipulated in the PPA due to:

a) Any ESCOM Event of Default; or
b) Force Majeure Events affecting ESCOM; or
c) Force Majeure Events affecting the SPG

For the extension of time for clause (a), (b) OR (c), the SPG shall obtain approval of appropriate Commission, for commissioning of the solar project beyond SCOD. Upon approval of such extension by Commission, the SCOD and expiry date of PPA shall also be extended to that extent.

5.7.2. As a result of such extension, the Scheduled Commissioning Date and the Expiry Date newly determined shall be deemed to be the Commissioning Date and the Expiry Date for the purposes of this Agreement.

5.7.3. In case, such delay in commissioning of the Project on any of the grounds stated by the SPG specified in the Article 5.7.1 (a), (b), (c) is condoned by appropriate Commission and if such condoned period is more than the extended date for commissioning. However, ESCOM will not be held responsible to make good such losses.

### 5.8. Penalty for delay in commencement of supply of power to ESCOM

5.8.1. If the SPG is unable to commence supply of power to ESCOM by the SCOD other than for the reasons specified in Article 5.7.1, the SPG shall pay to ESCOM, Penalty for the delay in such commencement of supply of power and making the Contracted Capacity available for dispatch by the SCOD as per the following:

a. For the delay up to one (1) month, an amount equivalent to 20% of the total Performance Security;
b. For the delay upto two (2) months, an amount equivalent to 40% of the total Performance Security;
c. For the delay upto three (3) months, an amount equivalent to 40% of the

total Performance Security.

5.8.2. In case the SPG delays the achievement of COD beyond three (3) months, the SPG shall pay to ESCOM the penalty at the rate of INR 50,000/- (Rupees Fifty Thousand) per MW per day of delay, for the delay in such commissioning. Provided that the SPG shall be required to make such payment to ESCOM in advance, on a week to week basis for the period of delay.

5.8.3. The maximum time period allowed for achievement of COD shall be 10 months from date of isssue of LOA with additional three (3) months time period (with penalty as per Article 5.8.1) and further additional one (1) month time period (with Penalty as per Article 5.8.2).

5.8.4. In case, the achievement of COD is delayed beyond the stipulated time as specified in Article 5.8.3 of this PPA, it shall be considered as an SPG's Event of Default under provisions of Article 16 and the PPA will be terminated.

### 5.9. Acceptance/Performance Test

5.9.1. Prior to synchronization of the Power Project, the SPG shall be required to get the Project certified for the requisite acceptance/performance test as may be laid down by Central Electricity Authority or Chief Electrical Inspectorate, Government of Karnataka to carry out testing and certification for the solar power projects.

### 5.10. Third Party Verification

5.10.1. The SPG shall be further required to provide entry to the site of the Power Project free of all encumbrances at all times during the Term of the Agreement to ESCOM, its authorised representatives and a third Party nominated by any Governmental Instrumentality for inspection and verification of the works being carried out by the SPG at the site of the Power Project. The SPG shall bear the cost of appointment of Third Party verification.

5.10.2. The third party may verify the construction works/operation of the Power Project being carried out by the SPG and if it is found that the construction works/operation of the Power Project is not as per the Prudent Utility Practices, it may seek clarifications from SPG or require the works to be stopped or to comply with the instructions of such third party.

The third party may carry out checks for testing the CUF of the Power Project. During the first 10 years after COD, a Contract Year, the SPG shall maintain minimum -15% of declared CUF of the Power Project, while after 10 years, the SPG shall maintain minimum -20% of declared CUF. If the generation is found to be below the prescribed limits as mentioned in this clause, on account of reasons solely attributable to SPG, the SPG shall be liable for non-fulfilment of its obligation. The liability shall be levied by ESCOM, for non-supply of Power by the SPG as per Article 5.6.

## ARTICLE 6: OBLIGATIONS OF ESCOM

### 6.1. Obligations of ESCOM

6.1.1. ESCOM shall, at its own cost and expense undertake, comply with and perform all its obligations set out in this Agreement or arising hereunder.

6.1.2. ESCOM shall make timely payments of Tariff to the SPG as per the procedure set out in Article 13.

6.1.3. ESCOM agrees to provide support to the SPG and undertake to observe, comply with and perform, subject to and in accordance with the provisions of this Agreement and the Applicable Laws, the following:

a) upon written request from the SPG, and subject to the SPG complying with Applicable Laws, provide reasonable support and assistance to the SPG in procuring Applicable Permits required from any government agencies for implementation and operation of the Project;

b) not do or omit to do any act, deed or thing which may in any manner be violative of any of the provisions of this Agreement;

c) act reasonably, while exercising its discretionary power under this Agreement; and

d) support, cooperate with and facilitate the SPG in the implementation and operation of the Project in accordance with the provisions of this Agreement;

## Article 7: REPRESENTATIONS AND WARRANTIES

### 7.1. Representations and warranties of the SPG

a) it is duly organized, validly existing and in good standing under the laws of India;

b) it has full power and authority to execute, deliver and perform its obligations under this Agreement and to carry out the transactions contemplated hereby;

c) it has taken all necessary corporate and other action under Applicable Laws and its constitutional documents to authorize the execution, delivery and performance of this Agreement;

d) it has the financial standing and capacity to undertake the Project;

e) this Agreement constitutes its legal, valid and binding obligation enforceable against it, in accordance with the terms hereof;

f) the execution, delivery and performance of this Agreement will not conflict with, result in the breach of, constitute a default under or accelerate performance required by any of the terms of the SPG's Memorandum and Articles of Association or any Applicable Laws or any covenant, agreement, understanding, decree or order to which it is a party or by which it or any of its properties or assets are bound or affected;

g) there are no actions, suits, proceedings or investigations pending or to the SPG's knowledge threatened against it at law or in equity before any court or before any other judicial, quasi-judicial or other authority, the outcome of which may constitute SPG Event of Default or which individually or in the aggregate may result in Material Adverse Effect;

h) if it has no knowledge of any violation or default with respect to any order, writ, injunction or any decree of any court or any legally binding order of any Government Agency, which may also result in Material Adverse Effect;

i) it has complied with all Applicable Laws and has not been subject to any fines, penalties, injunctive relief or any other civil or criminal liabilities which in the aggregate have or may have Material Adverse Effect;

j) no representation or warranty by the SPG contained herein or in any other document furnished by it to ESCOM or to any Government Agency in relation to Applicable Permits contains or will contain any untrue statement of material fact or omits or will omit to state a material fact necessary to make such representation or warranty not misleading; and

k) without prejudice to any express provision contained in this Agreement, the SPG acknowledges that prior to the execution of this Agreement, the SPG has after a complete and careful examination made an independent evaluation of the Project, and the information provided by ESCOM, and has determined to its satisfaction, the nature and extent of risks and hazards as are likely to arise or may be faced by the SPG in the course of performance of its obligations hereunder.

The SPG also acknowledges and hereby accepts the risk of inadequacy, mistake or error in or relating to any of the matters set forth above and hereby confirms that ESCOM shall not be liable for the same in any manner whatsoever to the SPG.

### 7.2. Representations and Warranties of ESCOM

ESCOM represents and warrants to the SPG that:

a) ESCOM has full power and authority to enter into this Agreement and has taken all necessary action to authorize the execution, delivery and performance of this Agreement; and

b) This Agreement constitutes ESCOM's legal, valid and binding obligation enforceable against it, in accordance with the terms hereof.

### 7.3. Obligation to Notify Change

In the event that any of the representations or warranties made/given by a Party ceases to be true or stands changed, the Party who had made such representation or given such warranty shall promptly notify the other of the same.

## ARTICLE 8: SYNCHRONISATION, COMMISSIONING AND COMMERCIAL OPERATION

**8.1.** The SPG shall provide at least thirty (30) days advance preliminary written notice and at least fifteen (15) days advance final written notice to ESCOM of the date on which it intends to synchronize the Power Project to the Grid System.

**8.2.** Subject to Article 8.1, the Power Project shall be synchronized by the SPG with the Grid System, when it meets all the connection conditions prescribed in applicable Grid Code then in effect and otherwise meets all other Indian legal requirements for synchronization to the Grid System.

**8.3.** The synchronization equipment and all necessary arrangements/equipments including RTU for scheduling of power generated from the project and transmission of data to the concerned authority as per applicable regulations shall be installed by the SPG at its generation facility of the Power Project at its own cost. The SPG shall synchronize its system with the Grid System only after the approval of synchronization scheme is granted by the head of the concerned sub-station/Grid System and checking/verification is made by the concerned authorities of the Grid System.

**8.4.** The SPG shall immediately after each synchronization/tripping of generator, inform the sub-station of the Grid System to which the Power Project is electrically connected in accordance with applicable Grid Code. In addition, the SPG will inject infirm power to grid time to time to carry out operational/functional test prior to commercial operation. For avoidance of doubt, it is clarified that Synchronization/Connectivity of the Project, during operational/functional test, with the grid shall not to be considered as Commissioning of the Project.

**8.5.** The SPG shall commission the Project within SCOD/COD and supply power to the ESCOM grid as prescibed under Article 5.8.3 of this PPA.

**8.6.** In case, the SPG commission the plant within three (3) months from the SCOD, the SPG shall pay ESCOM as Penalty for such delay in commencement of supply of power as prescibed under Article 5.8.1 of this PPA.

**8.7.** In case, the SPG commission the plant beyond three (3) months and within four (4) months from SCOD, Article 5.8.2 of this PPA will be applicable.

**8.8.** In case, the SPG fails to commission the plant within four (4) months from SCOD, Article 5.8.4 of this PPA will be applicable.

## ARTICLE 9: DISPATCH

### 9.1. Dispatch

The Power Project shall be required to maintain compliance to the applicable Grid Code requirements and directions, if any, as specified by concerned SLDC/RLDC from time to time.

Any deviation from the Schedule will attract the provisions of applicable regulation / guidelines/directions and any financial implication on account of this, shall be on the account of the SPG.

The SPG shall be responsible for directly coordinating and dealing with ESCOM, State Load Dispatch Center, and other authorities in all respects in regard to declaration of availability, scheduling and dispatch of Power and due compliance with deviation and settlement mechanism and the applicable Grid code Regulations.

The SPG shall be responsible for any deviation from scheduling and for any resultant liabilities on account of charges for deviation as per applicable regulations. The SPG shall be responsible for payment of deviation settlement charges on account of deviation in scheduling.

Auxiliary power consumption will be treated as per the concerned state regulations.

## ARTICLE 10: METERING

### 10.1. Meters

10.1.1. For installation of meters, meter testing, meter calibration and meter reading and all matters incidental thereto, the SPG and ESCOM shall follow and be bound by the Applicable Laws including Central Electricity Authority (Installation and Operation of Meters) Regulations, 2006, the Grid Code, as amended and revised from time to time.

10.1.2. The SPG shall bear all costs pertaining to installation, testing, calibration, maintenance, renewal and repair of meters at SS (Delivery Point) and at SPG's plant site (11kV side).

### 10.2. Measurement of Energy

Measurement of electrical energy shall be done at the Interconnection point or points by the metering system. It is pertinent to mention that the metering shall be done at the inter-connection point at the SS end.

### 10.3. Reporting of Metered Data and Parameters

10.3.1. The SPG shall install necessary equipment for regular monitoring of solar irradiance (including DNI), ambient air temperature, wind speed and other weather parameters and simultaneously for monitoring of the electric power generated from the plant.

10.3.2. Online arrangement shall have to be made by the SPG for submission of above data regularly for the entire period of this Power Purchase Agreement to SLDC, ESCOM .

10.3.3. Reports on above parameters on monthly basis shall be submitted by the SPG to SLDC through ESCOM, for entire period of this Agreement.

## ARTICLE 11: INSURANCES

### 11.1. Insurance

The SPG shall effect and maintain or cause to be effected and maintained, at its own cost and expense, throughout the Term of this Agreement, Insurances against such risks, to keep the project in good condition and shall take industrial all risk insurance policy covering risks against fire or any loss or damage, with such deductibles and with such endorsements and co-insured(s), which the Prudent Utility Practices would ordinarily merit maintenance of and as required under the Financing Agreements, and under the applicable laws.

### 11.2. Application of Insurance Proceeds

11.2.1. Save as expressly provided in this Agreement or the Insurances, the proceeds of any insurance claim made due to loss or damage to the Power Project or any part of the Power Project shall be first applied to reinstatement, replacement or renewal of such loss or damage.

11.2.2. If a Force Majeure Event renders the Project no longer economically or technically viable and the insurers make payment on a "total loss" or equivalent basis, ESCOM shall have a claim on such insurance proceeds limited to outstanding dues of ESCOM against the SPG. In case of liquidation of assets of the solar power plant prior to completion of the PPA period, ESCOM shall have first charge over such proceeds to the extent of any dues payable to ESCOM.

### 11.3. Effect on liability of ESCOM

Notwithstanding any liability or obligation that may arise under this Agreement, any loss, damage, liability, payment, obligation or expense which is insured or not or for which the SPG can claim compensation, under any Insurance shall not be charged to or payable by ESCOM.

## ARTICLE 12 : APPLICABLE TARIFF AND SHARING OF CDM BENEFITS

### 12.1. Applicable Tariff

12.1.1 The SPG shall be entitled to receive the tariff of INR ….. /kWh (Rupees ……. only) without any escalation for contracted energy supplied by it to ESCOM in accordance with the terms of this Agreement commencing from Commercial Operation Date.

12.1.2 The SPG shall be entitled for 75% of the agreed tariff, if ESCOM continue the PPA in case the delay in commissioning of the plant is after four (4) months from the SCOD subject to Article 16.

### 12.2. Import Billing

The SPG shall be allowed to draw 10% of the plant capacity towards startup power or power for other purposes and 115% of such power shall be adjusted form the energy generated to arrive at the net energy generated, which is available for despatch.
Wherever the net energy generated indicates a negative figure in a monthly billing cycle, such energy drawn shall be treated as energy drawn during non-generation period and charged at Average Cost of Supply as determined by the Commission, applicable to respective ESCOMS for the control period.
In case the energy drawn for startup power or other purposes exceeds 10% of the plant capacity, such excess energy shall be charged at 1.5 time the average cost of supply.
The energy pertaining to 10% capacity shall be computed considering the PLF /CUF as applicable to the relevant generation source.
Before drawing the startup power during generation period/ power required during non-generation period, the generators shall give prior notice to the respective ESCOMS and SLDC in writing or through electronic mode, and while utilising such power, shall comply with the relevant provisions of Grid Code, DSM Regulations, relevant Regulations/agreements/ procedures prescribed by the RLDC/ SLDC.

### 12.3. Reactive Energy Billing

The SPG shall pay at the rate of 40 paisa (Forty paisa) or any other rate fixed by the Commission, for each kVARH drawn.

### 12.4. Sharing of Clean Development Mechanism (CDM) Benefits

The Power Project shall be compatible to CDM claims and all such CDM claims shall be reported to ESCOM periodically by the SPG. The proceeds of carbon credit from approved CDM project shall be shared between the Parties in the following manner:

a. 100% of the gross proceeds of CDM benefit accrued in the first year following the date of Commercial Operation Date shall be retained by the SPG;

b. In the second year following the Commercial Operation Date, the SPG shall give 10% share in the gross proceeds of the CDM benefit to ESCOM and the share of benefit to ESCOM shall be progressively increased by 10% every year thereafter, till it reaches 50%, where after the proceeds shall be shared in equal proportion between the Parties.

## ARTICLE 13: BILLING AND PAYMENT

### 13.1. General

13.1.1. On achievement of COD and thereon commencement of supply of power, ESCOM shall pay to the SPG the monthly Tariff Payments, on or before the Due Date, in accordance with Article 12. All Tariff Payments by ESCOM shall be in Indian Rupees.

### 13.2. Delivery and Content of Monthly Bills/Supplementary Bills

13.2.1. The SPG shall issue to ESCOM a signed monthly bill/Supplementary Bill for the immediately preceding Month between the 5th day upto the 15th day of the next Month. In case the monthly bill/Supplementary Bill for the immediately preceding Month is issued after the 15th day of the next Month, the Due Date for payment of such monthly bill/ Supplementary Bill shall be as detailed in Article 13.3.1 below.

13.2.2. Each monthly bill shall include all charges as per this Agreement for the energy supplied for the relevant Month based on Energy Accounts issued by RLDC/SLDC or any other competent authority which shall be binding on both the Parties. The monthly bill amount shall be the product of the energy metered and the applicable Tariff.

### 13.3. Payment of Monthly Bills

13.3.1. Summation of all the energy meters provided at delivery points (if more than one evacuation line at SS end) shall be considered for monthly billing purpose.

13.3.2. ESCOM shall pay the amount payable under the monthly bill/Supplementary Bill by the 5th (fifth) day of the immediately succeeding Month (the Due Date) in which the monthly bill/Supplementary Bill is issued by the SPG to ESCOM to such account of the SPG, as shall have been previously notified by the SPG in accordance with article (c) of Clause 13.3.3 below. In case the monthly bill or any other bill, including a Supplementary Bill is issued after the 15th (fifteenth) day of the next month, the Due Date for payment would be 5th (fifth) day of the next month to the succeeding Month.

13.3.3. All payments required to be made under this Agreement shall also include any deduction or set off for:

a) deductions required by the Law; and

b) amounts claimed by ESCOM, if any, from the SPG, through an invoice to be payable by the SPG, and not disputed by the SPG within fifteen (15) days of receipt of the said Invoice and such deduction or set-off shall be made to the extent of the amounts not disputed. It is clarified that ESCOM shall be entitled to claim any set-off or deduction under this Article, after expiry of the said fifteen (15) days period.

c) The SPG shall open a bank account at ..... [Insert name of place] (the "**SPG's Designated Account**") for all Tariff Payments (including Supplementary Bills) to be made by ESCOM to the SPG, and notify ESCOM, the details of such account at least ninety (90) days before the dispatch of the first monthly bill.

**13.4. Late Payment Surcharge**

In the event of delay in payment of a monthly bill by ESCOM within its Due Date, a late payment surcharge shall be payable to the SPG at the rate of 1% per month on the outstanding amount calculated on a day to day basis. SPG shall raise a supplementary bill for LPS ("**Late Payment Surcharge**") claim.

**13.5. Rebate**

As per the Article 13.2.2 of this agreement, the SPG shall issue to ESCOM a signed monthly bill/supplementary bill for the immediately preceding month between the 5th day upto 15th day of the next month. However, even if the SPG issue to ESCOM the immediately preceding month bill before 5th of the next month, the date of issue of preceding month bill will be considered as only 5th of the next month for claiming the rebate under this Article of Rebate.

For payment of any Bill on OR before Due Date, the following Rebate shall be paid by the SPG to ESCOM in the following manner.

a. A rebate of 4% (Four percent) shall be payable to ESCOM for the payments made on the same day if bill is presented before 12 Noon and next day if the bill is presented after 12 Noon on the same day.
b. A rebate of 2% (Two percent) shall be payable to ESCOM for the payments made on or before the 7th Business day of the month.
c. A rebate of 1% (One percent) shall be payable to ESCOM for the payments made beyond the 7th Business day of the month upto the due date.
d. For the above purpose, the date of presentation of bill shall be same day in case it is delivered on OR before 12:00 noon, else it would be the next business day.
e. No rebate shall be payable on the bills raised on account of change in Law relating to taxes, duties and cess.

**13.6. Payment Security Mechanism**

**Letter of Credit (LOC):**

13.6.1. ESCOM shall provide to the SPG, in respect of payment of its Monthly Bills and/or Supplementary Bills, a monthly unconditional and irrevocable letter of credit ("**Letter of Credit**"), opened and maintained which may be drawn upon by the SPG in accordance with this Article.

13.6.2. Not later than one (1) Month before the start of supply, ESCOM through a scheduled bank at ……. [Identified Place] open a Letter of Credit in favour of the SPG, to be made operative from a date prior to the Due Date of its first Monthly Bill under this Agreement. The Letter of Credit shall have a term of twelve (12) Months and shall be renewed annually, for an amount equal to:

a) the estimated average monthly billing for the first Contract Year;
b) the average of the monthly billing of the previous Contract Year for each subsequent Contract Year.

13.6.3. Provided that the SPG shall not draw upon such Letter of Credit prior to the Due Date of the relevant Monthly Bill and/or Supplementary Bill, and shall not make more than one drawal in a Month.

13.6.4. Provided further that if at any time, such Letter of Credit amount falls short of the amount specified in Article 13.6.2 due to any reason whatsoever, ESCOM shall restore such shortfall within seven (7) days.

13.6.5. ESCOM shall cause the scheduled bank issuing the Letter of Credit to intimate the SPG, in writing regarding establishing of such irrevocable Letter of Credit.

13.6.6. ESCOM shall ensure that the Letter of Credit shall be renewed not later than thirty (30) days prior to its expiry.

13.6.7. All costs relating to opening, maintenance of the Letter of Credit shall be borne by ESCOM.

13.6.8. If ESCOM fails to pay a Monthly Bill or Supplementary Bill or part thereof, within and including the Due Date, then, subject to Article 13.6.6, the SPG may draw upon the Letter of Credit, and accordingly the bank shall pay without any reference or instructions from ESCOM, an amount equal to such Monthly Bill or Supplementary Bill or part thereof, if applicable, by presenting to the scheduled bank issuing the Letter of Credit, the following documents:

a) a copy of the Monthly Bill or Supplementary Bill which has remained unpaid to SPG and;
b) a certificate from the SPG to the effect that the bill at item (a) above, or specified part thereof, is in accordance with the Agreement and has remained unpaid beyond the Due Date;

### 13.7. Disputed Bill

13.7.1. If ESCOM does not dispute a Monthly Bill or a Supplementary Bill raised by the SPG by the Due Date, such Bill shall be taken as conclusive subject to reconciliation as per Clause 13.8.

13.7.2. If ESCOM disputes the amount payable under a Monthly Bill or a Supplementary Bill, as the case may be, it shall pay undisputed amount of the invoice amount and it shall within fifteen (15) days of receiving such Bill, issue a notice (the "**Bill Dispute Notice**") to the invoicing Party setting out:

a) the details of the disputed amount;
b) its estimate of what the correct amount should be; and
c) all written material in support of its claim.

13.7.3. If the SPG agrees to the claim raised in the Bill Dispute Notice issued pursuant to Article 13.7.2, the SPG shall revise such Bill and present along with the next Monthly Bill. In such case, excess amount shall be refunded along with interest at the same rate as Late Payment Surcharge, which shall be applied from the date on which such excess payment was made by the disputing Party to the invoicing Party and up to and including the date on which such payment has been received as refund.

13.7.4. If the SPG does not agree to the claim raised in the Bill Dispute Notice issued pursuant to Article 13.7.2, it shall, within fifteen (15) days of receiving the Bill Dispute Notice, furnish a notice (the **"Bill Disagreement Notice"**) to ESCOM providing:

a) reasons for its disagreement;
b) its estimate of what the correct amount should be; and
c) all written material in support of its counter-claim.

13.7.5. Upon receipt of the Bill Disagreement Notice by ESCOM under Clause 13.7.4, authorized representative(s) or a director of the board of directors/member of board of ESCOM and SPG shall meet and make best endeavours to amicably resolve such dispute within fifteen (15) days of receipt of the Bill Disagreement Notice.

13.7.6. If the Parties do not amicably resolve the Dispute within fifteen (15) days of receipt of Bill Disagreement Notice pursuant to Article 13.7.4, the matter shall be referred to Dispute resolution in accordance with Article 18.

13.7.7. For the avoidance of doubt, it is clarified that despite a Dispute regarding an Invoice, ESCOM shall, without prejudice to its right to Dispute, be under an obligation to make payment of the undisputed amount of the invoice amount in the Monthly Bill.

### 13.8. Quarterly and Annual Reconciliation

13.8.1. The Parties acknowledge that all payments made against Monthly Bills and Supplementary Bills shall be subject to quarterly reconciliation within thirty (30) days of the end of the quarter at the beginning of the following quarter of each Contract Year and annual reconciliation at the end of each Contract Year within thirty (30) days to take into account the Energy Accounts, Tariff adjustment payments, Tariff rebate, Late Payment Surcharge, or any other reasonable circumstance provided under this Agreement.

13.8.2. The Parties, therefore, agree that as soon as all such data in respect of any quarter of a Contract Year or a full Contract Year as the case may be has been finally verified and adjusted, the SPG and ESCOM shall jointly sign such reconciliation statement. Within fifteen (15) days of signing of a reconciliation statement, the SPG shall make appropriate adjustments in the next Monthly Bill. Late Payment Surcharge/interest shall be payable in such a case from the date on which such payment had been made to the invoicing Party or the date on which any payment was originally due, as may be applicable. Any Dispute with regard to the above reconciliation shall be dealt with, in accordance with the provisions of Article 18.

### 13.9. Payment of Supplementary Bill

13.9.1. SPG may raise a ("**Supplementary Bill**") for payment on account of:

a) Adjustments required by the Energy Accounts (if applicable); or
b) Tariff payment for change in parameters, or
c) Change in Law as provided in Article 15, or

13.9.2. ESCOM shall remit all amounts due under a Supplementary Bill raised by the SPG to the SPG's Designated Account by the Due Date. For such payments by ESCOM, Rebate as applicable to Monthly Bills pursuant to Article 13.5 shall equally apply.

13.9.3. In the event of delay in payment of a Supplementary Bill by either Party beyond its Due Date, a Late Payment Surcharge shall be payable at the same terms applicable to the Monthly Bill in Article 13.4.

## ARTICLE 14: FORCE MAJEURE

### 14.1. Definitions

14.1.1. In this Article, the following terms shall have the following meanings:

### 14.2. Affected Party

14.2.1. An Affected Party means ESCOM or the SPG, whose performance has been affected by an event of Force Majeure.

### 14.3. Force Majeure

14.3.1. A '**Force Majeure**' means any event or circumstance or combination of events those stated below which wholly or partly prevents or unavoidably delays an Affected Party in the performance of its obligations under this Agreement, but only if and to the extent that such events or circumstances are not within the reasonable control, directly or indirectly, of the Affected Party and could not have been avoided, if the Affected Party had taken reasonable care or complied with Prudent Utility Practices:

a) act of God, epidemic, pandemic, extremely adverse weather conditions, lightning, earthquake, landslide, cyclone, flood, volcanic eruption, chemical or radioactive contamination or ionising radiation, fire or explosion (to the extent of contamination or radiation or fire or explosion originating from a source external to the Site);

b) an act of war (whether declared or undeclared), invasion, armed conflict or act of foreign enemy, blockade, embargo, riot, insurrection, terrorist or military action, if and only if it is declared/notified by the competent state/central authority/agency (as applicable);

### 14.4. Force Majeure Exclusions

14.4.1. Force Majeure shall not include (i) any event or circumstance which is within the reasonable control of the Parties and (ii) the following conditions, except to the extent that they are consequences of an event of Force Majeure:

a) Unavailability, late delivery, or changes in cost of the plant, machinery, equipment, materials, spare parts or consumables for the Power Project;
b) Delay in the performance of any Contractor, sub-Contractor or their agents;
c) Non-performance resulting from normal wear & tear, typically experienced in power generation materials and equipment;
d) Strikes at the facilities of the Affected Party;
e) Insufficiency of finances or funds or the agreement becoming onerous to perform; and
f) Non-performance caused by, or connected with, the Affected Party's:
   i. Negligent or intentional acts, errors or omissions;
   ii. Failure to comply with an Indian Law; or
   iii. Breach of, or default under this Agreement.

### 14.5. Notification of Force Majeure Event

14.5.1. The Affected Party shall give notice to the other Party of any event of Force Majeure as soon as reasonably practicable, but not later than seven (7) days after the date on which such Party knew or should reasonably have known of the commencement of the event of Force Majeure. If an event of Force Majeure results in a breakdown of communications rendering it unreasonable to give notice within the applicable time limit specified herein, then the Party claiming Force Majeure shall give such notice as soon as reasonably practicable after reinstatement of communications, but not later than one (1) day after such reinstatement.

Provided that such notice shall be a pre-condition to the Affected Party's entitlement to claim relief under this Agreement. Such notice shall include full particulars of the event of Force Majeure, its effects on the Party claiming relief and the remedial measures proposed. The Affected Party shall give the other Party regular (and not less than monthly) reports on the progress of those remedial measures and such other information as the other Party may reasonably request about the Force Majeure Event.

14.5.2. The Affected Party shall give notice to the other Party of (i) the cessation of the relevant event of Force Majeure; and (ii) the cessation of the effects of such event of Force Majeure on the performance of its rights or obligations under this Agreement, as soon as practicable after becoming aware of each of these cessations.

### 14.6. Duty to Perform and Duty to Mitigate

14.6.1. To the extent not prevented by a Force Majeure Event pursuant to Article 14.3, the Affected Party shall continue to perform its obligations pursuant to this Agreement. The Affected Party shall use its reasonable efforts to mitigate the effect of any Force Majeure Event as soon as practicable.

### 14.7. Available Relief for a Force Majeure Event

Subject to this Article 14:

a) no Party shall be in breach of its obligations pursuant to this Agreement except to the extent that the performance of its obligations was prevented, hindered or delayed due to a Force Majeure Event;
b) every Party shall be entitled to claim relief in relation to a Force Majeure Event in regard to its obligations, including but not limited to those specified under Article 5.7.1;
c) For avoidance of doubt, neither Party's obligation to make payments of money due and payable prior to occurrence of Force Majeure events under this Agreement shall be suspended or excused due to the occurrence of a Force Majeure Event in respect of such Party;
d) Provided that no payments shall be made by either Party affected by a Force Majeure Event for the period of such event on account of its inability to perform its obligations due to such Force Majeure Event.

## ARTICLE 15: CHANGE IN LAW

### 15.1. Definitions

In this Article 15, the following terms shall have the following meanings:

15.1.1. "**Change in Law**" means the occurrence of any of the following events after the Effective Date resulting into any additional recurring/non-recurring expenditure by the SPG or any income to the SPG:

a. the enactment, coming into effect, adoption, promulgation, amendment, modification or repeal (without re-enactment or consolidation) in India, of any Law, including rules and regulations framed pursuant to such Law;

b. a change in the interpretation or application of any law by any Governmental Instrumentality having the legal power to interpret or apply such Law, or any Competent Court of Law;

c. the imposition of a requirement for obtaining any Consents, Clearances and Permits which was not required earlier;

d. a change in the terms and conditions prescribed for obtaining any Consents, Clearances and Permits or the inclusion of any new terms or conditions for obtaining such Consents, Clearances and Permits; except due to any default of the SPG;

e. any change in taxes and duties or introduction of any taxes and duties made applicable for setting up of the Project and supply of power by the SPG as per the terms of this Agreement. The SPG shall consider all the prevailing taxes and duties applicable on the date of submission of Price Bid while submitting the Bid for the Project(s). If any such above prevailing taxes and duties are not considered or omitted or ignored, then it shall be accepted that the SPG has considered all such taxes and duties in its Bid. Any change in law pertaining to taxes and duties after the date of submission of Price Bid, shall be equally shared between ESCOM and SPG and appropriate change in tariff due to change in taxes and duties shall be as per Article 15.2 (Relief for Change in Law) of PPA.

f. but shall not include (i) any change in any withholding tax on income or dividends distributed to the shareholders of the SPG, or (ii) any change on account of regulatory measures by the KERC, or (iii) any change in the KERC approved Tariff as compared to the approved tariff exist as on the Bid Due Date.

### 15.2. Relief for Change in Law

15.2.1. The SPG shall be required to approach the appropriate forum of Law for seeking approval of change in Law.

15.2.2. The decision of appropriate forum of Law, acknowledge a Change in Law and the date from which it will become effective, provide relief for the same to be shared equally by both parties shall be final and governing on both the parties.

## ARTICLE 16: TERMINATION

### 16.1. Termination for SPG Default

16.1.1. Save as otherwise provided in this Agreement, in the event that any of the defaults specified below shall have occurred, and the SPG fails to cure the default within the Cure Period set forth below, or where no Cure Period is specified, then within a Cure Period of sixty (60) days, the SPG shall be deemed to be in default of this Agreement (the "**SPG Default**"), unless the default has occurred solely as a result of any breach of this Agreement by ESCOM or due to Force Majeure. The SPG defaults referred to herein shall include the following:

a) The SPG has failed to commence supply of power to ESCOM up to the contracted capacity by the end of period specified in Article 5 & Article 8 or failure to continue supply of contracted capacity to ESCOM after COD throughout the term of this Agreement; or

If,

i) the SPG assigns, mortgages or charges or purports to assign, mortgage or charge any of its assets or rights related to the Power Project in contravention of the provisions of this agreement; or

ii) the SPG transfers or negates any of its rights and/or obligations under this agreement, in a manner contrary to the provisions of this agreement; except where such transfer

- is in pursuance of a Law; and does not affect the ability of the transferee to perform, and such transferee has the financial capability to perform its obligations under this agreement or
- is to a transferee who assumes such obligations under this agreement and the agreement remains effective with respect to the transferee;

b) The condition relating to equity lock-in period specified in Article 5.2 of this Agreement is not complied with;

c) the Performance Security has been encashed and appropriated in accordance with Article 4.4(b) and the SPG fails to replenish or provide fresh Performance Security within a Cure Period of fifteen (15) days;

d) The SPG has unlawfully repudiated this Agreement or has otherwise expressed an intention not to be bound by this Agreement;

e) The SPG is in material breach of any of its obligations pursuant to this Agreement, and such material breach is not rectified by the SPG within thirty (30) days of receipt of first notice in this regard given by ESCOM.

f) The SPG is in material breach of any of its obligations under this Agreement and the same has not been remedied for more than thirty (30) days;

g) Any representation made or warranty given by the SPG under this Agreement is found to be false or misleading;

h) A resolution has been passed by the shareholders of the SPG for voluntary winding up of the SPG;

i) Any petition for winding up of the SPG has been admitted and liquidator or provisional liquidator has been appointed or the SPG has been ordered to be wound up by Court of competent jurisdiction, except for the purpose of amalgamation or reconstruction with the prior consent of ESCOM, provided that, as part of such amalgamation or reconstruction and the amalgamated or reconstructed entity has unconditionally assumed all surviving obligations of the SPG under this Agreement;

j) A default has occurred under any of the Financing Documents and any of the lenders to the Project has recalled its financial assistance and demanded payment of the amounts outstanding under the Financing Documents or any of them as applicable; and

k) The SPG has suffered an attachment levied on any of its assets which has caused or is likely to cause a Material Adverse Effect on the Project and such attachment has continued for a period exceeding 120 (One Hundred and Twenty) days.

**16.2. Termination for ESCOM Event of Default**

Save as otherwise provided in this Agreement, in the event that any of the defaults specified below shall have occurred, and ESCOM fails to cure the default within the Cure Period set forth below, or where no Cure Period is specified, then within a Cure Period of 30 (thirty) days, ESCOM shall be deemed to be in default of this Agreement (a **"ESCOM Event of Default"**), unless the default has occurred solely as a result of any breach of this Agreement by SPG or due to Force Majeure. The defaults referred to herein shall include the following:

a) ESCOM has unreasonably withheld or delayed grant of any approval or permission which the SPG is obliged to seek under this Agreement, and thereby caused or likely to cause Material Adverse Effect;

b) ESCOM is in material breach of any of its obligations, under this Agreement and has failed to cure such breach within ninety (90) days of receipt of notice thereof issued by the SPG and which has led to the Project forfeiting the benefits accruing under Applicable Law;

c) ESCOM has unlawfully repudiated this Agreement or otherwise expressed its intention not to be bound by this Agreement;

d) Any representation made by ESCOM under this Agreement has been found to be false or misleading.

**16.3. Procedure for cases of SPG Event of Default**

16.3.1. Upon the occurrence and continuation of any SPG Event of Default under Article 16.1, ESCOM shall be entitled to terminate this Agreement by issuing a notice stating its intention to terminate this Agreement (ESCOM Preliminary Default Notice), which shall specify in reasonable detail, the circumstances giving rise to the issue of such notice.

16.3.2. Following the issue of a ESCOM Preliminary Default Notice, the Consultation Period of sixty (60) days or such longer period as the Parties may agree, shall apply and it shall be the responsibility of the Parties to discuss as to what steps shall be taken with a view to mitigate the consequences of the relevant Event of Default having regard to all the circumstances.

16.3.3. During the Consultation Period, the Parties shall continue to perform their respective obligations under this Agreement.

16.3.4. Within a period of seven (7) days following the expiry of the Consultation Period unless the Parties shall have otherwise agreed to the contrary or the SPG Event of Default giving rise to the Consultation Period shall have ceased to exist or shall have been remedied, ESCOM shall be entitled to terminate this Agreement by giving a written Termination Notice of thirty (30) days to the SPG.

### 16.4. Procedure for cases of ESCOM Event of Default

16.4.1. Upon occurrence and continuation of any ESCOM Event of Default specified in Article 16.2, the SPG shall have the right to deliver to ESCOM, a SPG Preliminary Default Notice, which notice shall specify in reasonable detail, the circumstances giving rise to its issue.

16.4.2. Following the issue of a SPG Preliminary Default Notice, the Consultation Period of sixty (60) days or such longer period as the Parties may agree, shall apply and it shall be the responsibility of the Parties to discuss as to what steps shall be taken with a view to mitigate the consequences of the relevant Event of Default having regard to all the circumstances.

16.4.3. During the Consultation Period, the Parties shall continue to perform their respective obligations under this Agreement.

16.4.4. After a period of seven (7) days following the expiry of the Consultation Period and unless the Parties shall have otherwise agreed to the contrary or ESCOM Event of Default giving rise to the Consultation Period shall have ceased to exist or shall have been remedied, the SPG shall be entitled to sell the Contracted Capacity to ESCOM only till such decision is finalised by competent authority.

## ARTICLE 17: Liability and Indemnification

### 17.1. Indemnity

17.1.1. The SPG shall indemnify, defend and hold ESCOM harmless against:

a) any and all third party claims against ESCOM for any loss of or damage to property of such third party, or death or injury to such third party, arising out of a breach by the SPG of any of its obligations under this Agreement; and
b) any and all losses, damages, costs and expenses including legal costs, fines, penalties and interest actually suffered or incurred by ESCOM from third party claims arising by reason of a breach by the SPG of any of its obligations under this Agreement, (provided that this Article 17 shall not apply to such breaches by the SPG, for which specific remedies have been provided for under this Agreement).

17.1.2. ESCOM shall indemnify, defend and hold the SPG harmless against:

a) any and all third-party claims against the SPG, for any loss of or damage to property of such third party, or death or injury to such third party, arising out of a breach by ESCOM of any of their obligations under this Agreement; and
b) any and all losses, damages, costs and expenses including legal costs, fines, penalties and interest ('Indemnifiable Losses') actually suffered or incurred by the SPG from third party claims arising by reason of a breach by ESCOM of any of its obligations.

**17.2. Procedure for claiming Indemnity**

17.2.1. Third party claims

a) Where the indemnified party is entitled to indemnification from the indemnifying party pursuant to Article 17.1.1(a) or 17.1.2(a), the Indemnified Party shall promptly notify the Indemnifying Party of such claim referred to in Article 17.1.1(a) or 17.1.2(a) in respect of which it is entitled to be indemnified. Such notice shall be given as soon as reasonably practicable after the Indemnified Party becomes aware of such claim. The indemnifying party shall be liable to settle the indemnification claim within thirty (30) days of receipt of the above notice. Provided however that, if:
   i. the Parties choose to refer the contest the claim of third party; and
   ii. the claim amount is not required to be paid/deposited to such third party pending the resolution of the third party claim, the Indemnifying Party shall become liable to pay the claim amount to the Indemnified Party or to the third party, as the case may be, promptly following the resolution of the third party claim, if such claim is settled in favour of the third party.

b) The Indemnified Party may contest the claim of the third party for which it is entitled to be Indemnified under Article 17.1.1(a) or 17.1.2(a) and the indemnified party shall reimburse to the Indemnified Party all reasonable costs and expenses incurred by the Indemnified party. However, such Indemnified Party shall not settle or compromise such claim without first getting the consent of the indemnifying party, which consent shall not be unreasonably withheld or delayed.

An indemnifying party may, at its own expense, assume control of the defence of any proceedings brought against the Indemnified Party if it acknowledges its obligation to indemnify such Indemnified Party, gives such Indemnified Party prompt notice of its intention to assume control of the defence, and employs an independent legal counsel at its own cost that is reasonably satisfactory to the Indemnified Party.

**17.3. Indemnifiable Losses**

17.3.1. Where an Indemnified Party is entitled to Indemnifiable Losses from the indemnifying party pursuant to Article 17.1.1(b) or 17.1.2(b), the Indemnified Party shall promptly notify the indemnifying party of the Indemnifiable Losses actually incurred by the Indemnified Party. The Indemnifiable Losses shall be reimbursed by the Indemnifying Party within thirty (30) days of receipt of the notice seeking Indemnifiable Losses by the Indemnified Party. In case of non payment of such losses after a valid notice under this Article 17, such event shall constitute a payment default under Article 16.

### 17.4. Limitation on Liability

17.4.1. Except as expressly provided in this Agreement, neither the SPG nor ESCOM nor its/ their respective officers, directors, agents, employees or affiliates (or their officers, directors, agents or employees), shall be liable or responsible to the other Party or its affiliates, officers, directors, agents, employees, successors or permitted assigns or their respective insurers for incidental, indirect or consequential damages, connected with or resulting from performance or non-performance of this Agreement, or anything done in connection herewith, including claims in the nature of lost revenues, income or profits (other than payments expressly required and properly due under this Agreement), any increased expense of, reduction in or loss of power generation or equipment used therefore, irrespective of whether such claims are based upon breach of warranty, tort (including negligence, whether of ESCOM, the SPG or others), strict liability, contract, breach of statutory duty, operation of law or otherwise.

17.4.2. ESCOM shall have no recourse against any officer, director or shareholder of the SPG or any Affiliate of the SPG or any of its officers, directors or shareholders for such claims excluded under this Article. The SPG shall have no recourse against any officer, director or shareholder of ESCOM, or any affiliate of ESCOM or any of its officers, directors or shareholders for such claims excluded under this Article.

### 17.5. Duty to Mitigate

17.5.1. The Parties shall endevour to take all reasonable steps so as mitigate any loss or damage which has occurred under this Article 17.

## ARTICLE 18: Governing Law and Dispute Resolution

### 18.1. Governing Law

This Agreement shall be governed by and construed in accordance with the Laws of India. Any legal proceedings in respect of any matters, claims or disputes under this Agreement shall be under the jurisdiction of appropriate courts in Karnataka.

### 18.2. Amicable Settlement and Dispute Resolution

i. Either Party is entitled to raise any claim, dispute or difference of whatever nature arising under, out of or in connection with this Agreement ( "Dispute") by giving a written notice (Dispute Notice) to the other Party, which shall contain:

   a. a description of the Dispute;

   b. the grounds for such Dispute; and

   c. all written material in support of its claim.

ii. The other Party shall, within thirty (30) days of issue of Dispute Notice issued under Article (i), furnish:

   a. counter-claim and defences, if any, regarding the Dispute; and

   b. all written material in support of its defences and counter-claim.

iii. Within thirty (30) days of issue of Dispute Notice by any Party pursuant to Article 18.2 (i) if the other Party does not furnish any counter claim or defense under Article 18.2 (ii) or thirty (30) days from the date of furnishing counter claims or defense by the other Party, both the Parties to the Dispute shall meet to settle such Dispute amicably.

If the Parties fail to resolve the Dispute amicably within thirty (30) days from the later of the dates mentioned in this Article 18.2 (iii), the Dispute shall be referred for dispute resolution in accordance with Article 18.3.

### 18.3. Dispute Resolution

If any dispute is not settled amicably under Article 18.2, the same shall be referred by any of the Parties to KERC for dispute resolution in accordance with the provisions of the Electricity Act 2003.

### 18.4. Performance during Dispute

18.4.1. Pending the submission of and /or decision on a Dispute by appropriate forum of Law, the Parties shall continue to perform their respective obligations under this Agreement, subject to any interim Order that may be passed by appropriate forum of Law, without prejudice to a final adjustment in accordance with such decision by appropriate forum of Law.

## ARTICLE 19: Assignment and Charges

### 19.1. Assignments

This Agreement shall be binding upon, and inure to the benefit of the Parties and their respective successors and permitted assigns. This Agreement shall not be assigned by any Party other than by mutual consent between the Parties to be evidenced in writing.

Provided that, ESCOM shall permit assignment of any of SPG's rights and obligations under this agreement in favor of the lenders to the SPG, if required under the financing agreements.

Provided further that any successor(s) or permitted assign(s) identified after mutual agreement between the Parties may be required to execute a new agreement on the same terms and conditions as are included in this Agreement.

Provided further that, the Transfer fees shall be applicable as per the State RE Policy, in case of title transfer and shareholder should fulfil the net worth requirement.

## ARTICLE 20: Miscellaneous

### 20.1. Interest and Right of Set-Off

Any sum which becomes payable under any of the provisions of this Agreement by one Party to the other Party shall, if the same be not paid within the time allowed for payment thereof, shall be deemed to be a debt owed by the Party responsible for payment thereof to the Party entitled to receive the same. Such sum shall until payment thereof carry interest at prevailing medium-term prime lending rate of State Bank of India per annum from the due date for payment thereof until the same is paid to or otherwise realized by the Party entitled to the same. Without prejudice to any other right or remedy that may be available under this Agreement or otherwise under law, the Party entitled to receive such amount shall also have the right of set-off.

Provided the stipulation regarding interest for delayed payments contained in this Article 20.1 shall neither be deemed or construed to authorize any delay in payment of any amount due by a Party nor be deemed or construed to be a waiver of the underlying breach of payment obligations.

### 20.2. Confidentiality

20.2.1. The Parties undertake to hold in confidence this Agreement and not to disclose the terms and conditions of the transaction contemplated hereby to third parties, except:

a. to their professional advisors;

b. to their officers, contractors, employees, agents or representatives, financiers, who need to have access to such information for the proper performance of their activities; or

c. disclosures required under Law;

d. without the prior written consent of the other Party.

### 20.3. Waiver of immunity

Each Party unconditionally and irrevocably:

a) agrees that the execution, delivery and performance by it of this Agreement constitute commercial acts done and performed for commercial purpose;
b) agrees that, should any proceedings be brought against it or its assets, property or revenues in any jurisdiction in relation to this Agreement or any transaction contemplated by this Agreement, no immunity (whether by reason of sovereignty or otherwise) from such proceedings shall be claimed by or on behalf of the Party with respect to its assets;
c) waives any right of immunity which it or its assets, property or revenues now has, may acquire in the future or which may be attributed to it in any jurisdiction; and
d) consents generally in respect of the enforcement of any judgement or award against it in any such proceedings to the giving of any relief or the issue of any process in any

jurisdiction in connection with such proceedings (including the making, enforcement or execution against it or in respect of any assets, property or revenues whatsoever irrespective of their use or intended use of any order or judgement that may be made or given in connection therewith).

**20.4. Waiver**

20.4.1. Waiver, including partial or conditional waiver, by either Party of any default by the other Party in the observance and performance of any provision of or obligations under this Agreement:

a) shall not operate or be construed as a waiver of any other or subsequent default hereof or of other provisions of or obligations under this Agreement;
b) shall not be effective unless it is in writing and executed by a duly authorized representative of the Party; and
c) shall not affect the validity or enforceability of this Agreement in any manner.

20.4.2. Neither the failure by either Party to insist on any occasion upon the performance of the terms, conditions and provisions of this Agreement or any obligation thereunder nor time or other indulgence granted by a Party to the other Party shall be treated or deemed as waiver of such breach or acceptance of any variation or the relinquishment of any such right hereunder.

**20.5. Exclusion of implied warranties etc.**

This Agreement expressly excludes any warranty, condition or other undertaking implied at law or by custom or otherwise arising out of any other agreement between the Parties or any representation by either Party not contained in a binding legal agreement executed by both Parties.

**20.6. Survival**

20.6.1. Termination shall;

a) not relieve the SPG or ESCOM, as the case may be, of any obligations hereunder which expressly or by implication survive Termination hereof; and
b) except as otherwise provided in any provision of this Agreement expressly limiting the liability of either Party, not relieve either Party of any obligations or liabilities for loss or damage to the other Party arising out of, or caused by, acts or omissions of such Party prior to the effectiveness of such Termination or arising out of such Termination.

20.6.2. All obligations surviving Termination shall only survive for a period of three (3) years following the date of such Termination.

**20.7. Entire Agreement**

This Agreement and the Schedules together constitute a complete and exclusive statement of the terms of the agreement between the Parties on the subject hereof, and no amendment or modification hereto shall be valid and effective unless such modification or amendment is agreed to in writing by the Parties and duly executed by persons especially empowered in

this behalf by the respective Parties. All prior written or oral understandings, offers or other communications of every kind pertaining to this Agreement are abrogated and withdrawn. For the avoidance of doubt, the Parties hereto agree that any obligations of the SPG arising from the Request For Proposal shall be deemed to form part of this Agreement and treated as such.

**20.8. Severability**

If for any reason whatever, any provision of this Agreement is or becomes invalid, illegal or unenforceable or is declared by any court of competent jurisdiction or any other instrumentality to be invalid, illegal or unenforceable, the validity, legality or enforceability of the remaining provisions shall not be affected in any manner, and the Parties will negotiate in good faith with a view to agreeing to one or more provisions which may be substituted for such invalid, unenforceable or illegal provisions, as nearly as is practicable to such invalid, illegal or unenforceable provision. Failure to agree upon any such provisions shall not be subject to the Dispute Resolution Procedure set forth under this Agreement or otherwise.

**20.9. No partnership**

This Agreement shall not be interpreted or construed to create an association, joint venture or partnership between the Parties, or to impose any partnership obligation or liability upon either Party, and neither Party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party.

**20.10. Third Parties**

This Agreement is intended solely for the benefit of the Parties, and their respective successors and permitted assigns, and nothing in this Agreement shall be construed to create any duty to, standard of care with reference to, or any liability to, any person not a Party to this Agreement.

**20.11. Labour clauses**

In respect of all Labour, directly employed in the Work for the performance of SPG's part of this agreement, the SPG shall at his own expense arrange for all the safety provisions as per safety codes of C.P.W.D., Indian Standards Institution, the Electricity Act and such other acts, as applicable.

The SPG shall provide and employ on Site in the installation of the Facilities such skilled, semiskilled and unskilled labour as is necessary for proper and timely execution of the Contract. The SPG is encouraged to use local labour that has the necessary skills. Unless otherwise provided in the Contract, the SPG shall be responsible for the recruitment, transportation, accommodation, sanitation, first aid facility and catering of all labour, local or expatriate, required for the execution of the Contract and for all payments in connection therewith.

The SPG shall be responsible for obtaining all necessary permit(s) and/or visa(s) from the appropriate authorities for the engagement and entry of all labour and personnel to be employed by SPG on the Site including that of its sub-contractors.

The SPG shall at all times during the progress of the Contract use its best endeavors to prevent any unlawful, riotous or disorderly conduct or behavior by or amongst its employees and the labour of its sub-contractors.

**20.12. Monthly progress report**

From the date of signing the PPA until the scheduled commissioning date, the SPGs shall submit a monthly progress report to ESCOM on the development progress of the project under construction such that ESCOM get visibility if the project is heading towards scheduled COD. The SPG shall scrupulously adhere to these targets/programs by deploying adequate personnel, construction tools and tackles and shall achieve the targets/ programs in the scheduled time.

The format for the report will be provided by ESCOM alongwith Letter of Award. The SPG shall provide display boards showing progress and Labour strengths at worksite. Updated project schedule in MS Projects shall also be furnished by SPG as per agreed interval.

**20.13. Successors and assigns**

This Agreement shall be binding upon, and inure to the benefit of the Parties and their respective successors and permitted assigns.

**20.14. Notices**

Any notice or other communication to be given by any Party to the other Party under or in connection with the matters contemplated by this Agreement shall be in writing and shall:

a) in the case of the SPG, be given by facsimile or e-mail and by letter delivered by hand to the address given and marked for attention of the person set out below or to such other person as the SPG may from time to time designate by notice to ESCOM; provided that notices or other communications to be given to The General Manager(Power Purchase), ESCOM, Corporate Office, Bengaluru, if they are subsequently confirmed by sending a copy thereof by registered acknowledgement due, air mail or by courier, be sent by facsimile or e-mail to the number as the SPG may from time to time designate by notice to ESCOM;

b) in the case of ESCOM, be given by facsimile or e-mail and by letter delivered by hand/registered post and be addressed to The General Manager(Power Purchase), ESCOM with a copy delivered to ESCOM representative or such other person as ESCOM may from time to time designate by notice to the SPG; provided that if the SPG does not have an office in Bengaluru it may send such notice by facsimile or e-mail and by registered acknowledgement due, air mail or by courier; and

c) any notice or communication by a Party to the other Party, given in accordance herewith, shall be deemed to have been delivered when in the normal course of post it ought to have been delivered and in all other cases, it shall be deemed to have been delivered on the actual date and time of delivery, provided that in the case of facsimile or e-mail, it shall be deemed to have been delivered on the working day following the date of its delivery.

**20.15. Language**

All notices required to be given by one Party to the other Party and all other communications, documentation and proceedings which are in any way relevant to this Agreement shall be in writing and in English language.

**20.16. Counterparts**

20.16.1. This Agreement may be executed in two counterparts, each of which, when executed and delivered, shall constitute an original of this Agreement.

**ARTICLE 21: Definitions**

**21.1. Definitions**

In this Agreement, the following words and expressions shall, unless repugnant to the context or meaning thereof, have the meaning hereinafter respectively assigned to them:

**"Accounting Year"** means the financial year commencing from the first day of April of any calendar year and ending on the thirty-first day of March of the next calendar year;

**"Act" or "Electricity Act, 2003"** shall mean the Electricity Act, 2003 and include any modifications, amendments and substitution from time to time;

**"Affected Party"** shall have the meaning set forth in Article 14.2;

**"Agreement" or "Power Purchase Agreement" or "PPA"** shall mean this Power Purchase Agreement including its recitals and Schedules, amended or modified from time to time in accordance with the terms hereof;

"**Appropriate Commission**" shall mean the Central Electricity Regulatory Commission referred to in sub- section (1) of section 76 or KERC;

**"Applicable Laws"** means all laws, brought into force and effect by GoI or the State Government including rules, regulations and notifications made thereunder, and judgments, decrees, injunctions, writs and orders of any court of record, applicable to this Agreement and the exercise, performance and discharge of the respective rights and obligations of the Parties hereunder, as may be in force and effect during the subsistence of this Agreement;

**"Applicable Permits"** means all clearances, licenses, permits, authorizations, no objection certificates, consents, approvals and exemptions required to be obtained or maintained under Applicable Laws in connection with the construction, operation and maintenance of the Project Facilities during the subsistence of this Agreement;

**"Arbitration Act"** means the Arbitration and Conciliation Act, 1996 and shall include modifications to or any re-enactment thereof, as in force from time to time;

**"ESCOM"** shall mean ..... ELECTRICITY SUPPLY COMPANY LIMITED with regards to this project;

**"ESCOM Event of Default"** shall have the meaning set forth in Article 16.2;

"**Bill Dispute Notice**" shall mean the notice issued by a Party raising a Dispute regarding a Monthly Bill or a Supplementary Bill issued by the other Party;

**"Business Day"**shall mean with respect to SPG and ESCOM, a day other than Sunday or a statutory holiday, on which the banks remain open for business in Karnataka;

**"Capacity Utilization Factor" or "CUF"** shall have the same meaning as provided in CERC (Terms and Conditions for Tariff determination from Renewable Energy Sources) Regulations, 2009 as amended from time to time. Here, the CUF is expressed in AC terms;

**"Change in Law"** shall have the meaning ascribed thereto in Article 15 of this Agreement;

**"CERC"** shall mean the Central Electricity Regulatory Commission of India, constituted under sub – section (1) of Section 76 of the Electricity Act, 2003, or its successors;

**"Central Empowered Committee"** shall mean the committee formed as per the provisions of the National Solar Mission for selection of SPGs;

**"COD" or "Commercial Operation Date**" shall mean the actual commissioning date of respective units of the Power Project where upon the SPG starts injecting power from the Power Project to the Delivery Point(s);

**"Company"** means the Company acting as the SPG under this Agreement;

**"Competent Court of Law"** shall mean any court or tribunal or any similar judicial or quasi-judicial body in India that has jurisdiction to adjudicate upon issues relating to this Agreement;

**"Conditions Precedent"** shall have the meaning set forth in Article 4.2;

**"Consents, Clearances and Permits"** shall mean all authorizations, licenses, approvals, registrations, permits, waivers, privileges, acknowledgements, agreements, or concessions required to be obtained from or provided by any concerned authority for the purpose of setting up of the generation facilities and/or supply of power;

**"Consultation Period"** shall mean the period of sixty (60) days or such other longer period as the Parties may agree, commencing from the date of issuance of a SPG Preliminary Default Notice or ESCOM Preliminary Default Notice as provided in Article 16 of this Agreement, for consultation between the Parties to mitigate the consequence of the relevant event having regard to all the circumstances;

**"Consortium"** shall have the meaning set forth in Recital (D);

**"Consortium Member"** means a company specified in Recital (D) as a member of the Consortium;

**"Construction Works"** means all works and things necessary to complete the Project Facilities in accordance with this Agreement;

"**Contracted Capacity**" shall mean …….MW(AC) contracted with ESCOM for supply of power by the SPG to ESCOM at the Delivery Point(s) from the Solar Power Project;

**"Contract Year"** shall mean the period beginning from the COD and ending on the immediately succeeding March 31 and thereafter each period of 12 months beginning on April 1st and ending on March 31st provided that:

(i) in the financial year in which the Scheduled Commissioning Date would occur, the Contract Year shall end on the date immediately before the Scheduled Commissioning Date and a new Contract Year shall commence once again from the Scheduled Commissioning Date and end on the immediately succeeding March 31, and thereafter each period of twelve (12) months commencing on April 1st and ending on March 31st and

(ii) provided further that the last Contract Year of this Agreement shall end on the last day of the Term of this Agreement;

**"Contractor"** means the person or persons excluding Other SPG, as the case may be, with whom the SPG has entered into any of the EPC Contract, the O&M Contract, or any other agreement or a material contract for construction, operation and/or maintenance of the Project or matters incidental thereto, but does not include a person who has entered into an agreement for providing financial assistance to the SPG;

**"Cure Period"** means the period specified in this Agreement for curing any breach or default of any provision of this Agreement by the Party responsible for such breach or default and shall:

a. commence from the date on which a notice is delivered by one Party to the other Party asking the latter to cure the breach or default specified in such notice;
b. not relieve any Party from liability to pay Damages or compensation under the provisions of this Agreement; and
c. provided that if the cure of any breach by the SPG requires any reasonable action by the SPG that must be approved by ESCOM or the Independent Engineer hereunder, the applicable Cure Period shall be extended by the period taken by ESCOM or the Independent Engineer to accord their approval;

**"Delivery Point"** shall mean point or points at which power supplied into the KPTCL Grid System;

**"Damages"** shall have the meaning set forth in Sub-clause (w) of Article 1.2.1;

**"Dispute"** shall have the meaning set forth in Article 18.2;

**"Dispute Resolution Procedure"** means the procedure for resolution of Disputes set forth in Article 18;

**"Document" or "Documentation"** means documentation in printed or written form, or in tapes, discs, drawings, computer programmes, writings, reports, photographs, films, cassettes, or expressed in any other written, electronic, audio or visual form;

**"Due Date"** shall have the same meaning ascribed thereto in Article 13 of this Agreement;

**"Effective Date"** shall mean date of signing of PPA and shall be considered as deemed to have been approved by the Commission;

**"Electricity Laws"** shall mean the Electricity Act, 2003 and the rules and regulations made there under from time to time along with amendments thereto and replacements thereof and any other Law pertaining to electricity including regulations framed by the Appropriate Commission;

**"Emergency"** means a condition or situation that is likely to endanger the security of the individuals on or about the Project Facilities, including Users thereof, or which poses an immediate threat of material damage to any of the Project Assets;

**"Encumbrances"** means any encumbrance such as mortgage, charge, pledge, lien, hypothecation, security interest, assignment, privilege or priority of any kind having the

effect of security or other such obligations and shall include without limitation any designation of loss payees or beneficiaries or any similar arrangement under any insurance policy pertaining to the Project, physical encumbrances, claims for any amounts due on account of taxes, cess, electricity, water and other utility charges and encroachments on the Project Site/Project Facilities;

**"Energy Accounts"** shall mean the regional energy accounts/state energy accounts as specified in the Grid Code issued by the appropriate agency for each Month (as per their prescribed methodology), including the revisions and amendments thereof;

**"Events of Default"** shall mean the events as defined in Article 16 of this Agreement;

**"Expiry Date"** shall mean the date occurring twenty five (25) years from the COD;

**"Financial Closure"** shall mean the execution of all the Financing Agreements required for the Power Project and fulfillment of Condition Precedents and waiver, if any, of any of the Condition Precedents for the initial draw down of funds there under;

**"Financing Agreement"** shall mean the agreements pursuant to which the SPG has sought financing for the Power Project including the loan agreements, security documents, notes, indentures, security agreements, letters of credit and other documents, as may be amended, modified, or replaced from time to time, but without in anyway increasing the liabilities of ESCOM;

**"Force Majeure" or "Force Majeure Event"** shall have the meaning ascribed to it in Article 14.3.1;

**"GoI"** means Government of India;

**"Good Industry Practice"** means the practices, methods, techniques, designs, standards, skills, diligence, efficiency, reliability and prudence which are generally and reasonably expected from a reasonably skilled and experienced operator engaged in the same type of undertaking as envisaged under this Agreement and which would be expected to result in the performance of its obligations by the SPG in accordance with this Agreement, Applicable Laws and Applicable Permits in reliable, safe, economical and efficient manner;

**"Government Instrumentality"** means any department, division or sub-division of Government of India or the State Government and includes any commission board, authority, agency or municipal and other local authority or statutory body including Panchayat under the control of Government of India or the State Government, as the case may be, and having jurisdiction over all or any part of the Project Facilities or the performance of all or any of the services or obligations of the SPG under or pursuant to this Agreement;

**"Grid Code"** shall mean the Grid Code specified by the CERC under Clause (h) of Sub-section (1) of Section 79 of the Electricity Act, as amended from time to time;

**"Grid System"** means the Interconnection Facilities and any other transmission or distribution facilities (including SS) through which the SPG supply electricity to ESCOM, which transmits electricity to their customer(s);

**"Installed Capacity"** shall mean the name plate capacity of all the units of the Solar PV

Project reckoned at Generator Terminals or the AC Rating of the Solar PV Project at Delivery Point(s);

**"Insurances"** shall mean the insurance cover to be obtained and maintained by the SPG in accordance with Article 11 of this Agreement;

**"Interconnection Facilities"** shall mean the facilities on SPG's side of the Delivery Point(s) for sending and metering the electrical output in accordance with this Agreement and which shall include, without limitation, all other transmission lines and associated equipments, transformers, relay and switching equipment and protective devices, safety equipment and, subject to Article 10, the Metering System required for supply of power as per the terms of this Agreement;

**"Invoice" or "Bill"** shall mean either a Monthly Bill/Supplementary Bill or a Monthly Invoice/Supplementary Invoice raised by any of the Parties;

**"KERC"** shall mean the Karnataka Electricity Regulatory Commission of India, constituted under sub – section (1) of Section 3 of the Karnataka Electricity Reforms Act, 1999 or its successors;

**"Late Payment Surcharge"** shall have the meaning ascribed thereto in Article 13.4 of this Agreement;

**"Law"** shall mean in relation to this Agreement, all laws including Electricity Laws in force in India and any statute, ordinance, regulation, notification or code, rule, or any interpretation of any of them by an Indian Governmental Instrumentality and having force of law and shall further include without limitation to all applicable rules, regulations, orders, notifications by an Indian Governmental Instrumentality pursuant to or under any of them and shall include without limitation all rules, regulations, decisions and orders of the KERC;

**"Letter of Credit" or "LOC"** shall have the meaning ascribed thereto in Article 13.6.1 of this Agreement;

**"Lead Member"** shall have the meaning set forth in Recital (D);

**"Lenders' Representative"** means the person duly authorized by the Senior Lenders to act for and on behalf of the Senior Lenders with regard to matters arising out of or in relation to this Agreement, and includes his successors, assigns and substitutes;

**"LOA" or "Letter of Award"** means the letter of award referred to in Recital (E);

**"Month"** shall mean a period of thirty (30) days from (and excluding) the date of the event, where applicable, else a calendar month;

**"Material Adverse Effect"** means a material adverse effect of any act or event on the ability of either Party to perform any of its obligations under and in accordance with the provisions of this Agreement and which act or event causes a material financial burden or loss to either Party;

**"O&M"** means the operation and maintenance of the Project Facilities and includes all matters connected with or incidental to such operation and maintenance, provision of

services and facilities in accordance with the provisions of this Agreement;

**"Other SPG"** shall mean all the bidders other than the Single Business Entity/Consortium, declared as Selected Bidder under the RFP and the SPV, if any formed by such Selected Bidders, with whom the Power Purchase Agreements are executed in accordance with the provisions of the RFP to undertake any Project(s) thereunder;

**"Party" and "Parties"** shall have the meaning ascribed thereto in the recital to this Agreement;

**"Payment Security Mechanism"** shall have the meaning ascribed thereto in Article 13.6 of this Agreement;

**"Performance Security"** shall have the meaning set forth in Article 4.4;

**"Power Project"** shall mean the solar power generation facility of Installed Capacity of ….. MW (AC) [….. Mega Watt], located at ……. [Insert name of the place] in …. [Insert name of the District and State];

This includes all units and auxiliaries such as water supply, treatment or storage facilities; bay/s for transmission system in the switchyard, and all the other assets, buildings/ structures, equipments, plant and machinery, facilities and related assets required for the efficient and economic operation of the power generation facility;

whether completed or at any stage of development and construction or intended to be developed and constructed for the purpose of supply of power as per this Agreement;

**"Preliminary Default Notice"** shall have the meaning ascribed thereto in Article 16 of this Agreement;

**"Project Agreements"** means this Agreement, EPC Contract, O&M Contract and any other agreements or material contracts that may be entered into by the SPG with any person in connection with matters relating to, arising out of or incidental to the Project;

**"Prudent Utility Practices"** shall mean the practices, methods and standards that are generally accepted internationally from time to time by electric utilities for the purpose of ensuring the safe, efficient and economic design, construction, commissioning, operation and maintenance of power generation equipment and which practices, methods and standards shall be adjusted as necessary, to take account of:

a) operation and maintenance guidelines recommended by the manufacturers of the plant and equipment to be incorporated in the Power Project;
b) the requirements of Indian Law; and
c) the physical conditions at the site of the Power Project;

**"Request For Proposal" or "RFP"** shall have the meaning set forth in Recital (D);

**"RBI"** shall mean the Reserve Bank of India;

**"Rebate"** shall have the same meaning as ascribed thereto in Article 13.5 of this Agreement;

**"RLDC"** shall mean the relevant Regional Load Dispatch Centre established under Sub-section (1) of Section 27 of the Electricity Act, 2003;

**"Rupees", "INR"** shall mean Indian rupees, the lawful currency of India;

**"Scope of the Project"** shall have the meaning set forth in Article 2.1;

**"Scheduled Commissioning Date"** shall mean 10 months from Letter of Award;

**"Senior Lenders"** means the financial institutions, banks, multilateral lending agencies, trusts, funds and agents or trustees of debenture holders, including their successors and assignees, who have agreed to guarantee or provide finance to the SPG under any of the Financing Agreements for meeting all or any part of the Total Project Cost and who hold pari passu charge on the assets, rights, title and interests of the SPG;

**"SLDC"** shall mean the State Load Dispatch Centre established under Sub-section (1) of Section 31 of the Electricity Act 2003, relevant for the State(s) where the Delivery Point(s) is located;

**"SLDC Charges"** shall mean the charges levied by the SLDC of the state wherein the Solar Power Project is located;

**"Solar Photovoltaic" or "Solar PV"** shall mean the solar photovoltaic power project that uses sunlight for conversion into electricity and that is being set up by the SPG to provide Solar Power to ESCOM as per the terms and conditions of this Agreement;

**"Solar Power"** shall mean power generated from the Solar PV Project;

**"SPG"** shall have the meaning attributed thereto in the array of Parties hereinabove as set forth in the Recitals;

**"SPG Default"** shall have the meaning set forth in Article 16.1.1;

**"State"** means the State of Karnataka and "State Government" means the government of that State;

**"State Transmission Utility"** or **"STU"** shall mean Karnataka Power Transmission Corporation Limited or KPTCL;

**"Tariff"** shall have the same meaning as provided for in Article 12 of this Agreement;

**"Tariff Payment"** shall mean the payments to be made under Monthly Bills/Supplementary Bills as referred to in Article 13;

**"Tax"** means and includes all taxes, fees, cesses, duties (including stamp duties), levies that may be payable by the SPG for execution of the agreement and during the term of this Agreement under Applicable Law;

**"Termination"** means the expiry or termination of this Agreement and the Rights hereunder;

**"Termination Notice"** means the communication issued in accordance with this Agreement

by one Party to the other Party terminating this Agreement;

**"Term of Agreement"** shall have the meaning ascribed thereto in Article 3 of this Agreement;

**"Tests"** means the tests to be carried out in accordance with the Specifications and Standards of MNRE or the Maintenance Requirements and as finalized by the SPG in consultation with ESCOM;

**"Total Project Cost"** means the cost incurred by the SPG for development and construction of the Project Facilities, as determined by an independent firm of chartered accountants mutually agreed upon and appointed by the Parties;

**"Year"** shall mean a calendar year as per Gregorian calendar;

**"Week"** shall mean a calendar week commencing from 00:00 hours of Monday and ending at 24:00 hours of the following Sunday.

**IN WITNESS WHEREOF THE PARTIES HAVE EXECUTED AND DELIVERED THIS AGREEMENT AS OF THE DAY, MONTH AND YEAR FIRST ABOVE WRITTEN.**

**SIGNED, SEALED AND DELIVERED**
**For and on behalf of ESCOM by**
(Signature)

(Name)

(Designation)

**SIGNED, SEALED AND DELIVERED**
**For and on behalf of SPG by**
(Signature)

(Name)

(Designation)

In presence of:
1.

2.

## SCHEDULE 1: DETAILS ON INTEREST/TITLE OF SPG OVER THE LAND REQUIRED FOR PROJECT

1. Evidence of clear possession of the required land for the Project along with following documentary evidence: -
   - Ownership or lease hold rights in the name of the SPG and possession of 100% of the area of land required for the Project.
   - Certificate by the concerned and competent revenue/registration authority for the acquisition/ownership/vesting of the land in the name of the SPG and the land is suitable for industrial use.
   - Sworn affidavit from the Authorized person of the SPG, listing the details of the land and certifying total land required for the Project under clear possession of the SPG.
   - A certified English translation from an approved translator in case above land documents are in language other than English or Kannada Language.
   - Name of the District, Taluka, Village, Total area, location and survey numbers of the land.

## SCHEDULE 2

**[Technical Qualification requirement for Solar PV Project]**

The following are some of the technical measures required to ensure quality of the PV modules used in grid connected solar power projects.

### 1. PV Module Qualification:

1.1 The PV modules used in the grid connected solar power projects must qualify to the latest edition of any of the following IEC PV module qualification test or equivalent BIS standards or MNRE specifications.

| | |
|---|---|
| Crystalline Silicon Solar Cell Modules | IEC 61215 |
| Thin Film Modules | IEC 61646 |

1.2 In addition, PV modules must qualify to IEC 61730 for safety qualification testing. For the PV modules to be used in a highly corrosive atmosphere throughout their lifetime, they must qualify to IEC 61701.

1.3 It will be mandatory to use and procuring indigenously manufactured Solar Cells and Solar PV modules from Approved List of Models and Manufacturers (ALMM) list published by MNRE from time to time.

### 2. Power Conditioners/Inverters:

The Power Conditioners/Inverters of the SPV power plants must conform to the latest edition of IEC/equivalent Standards as specified below:

| | |
|---|---|
| Efficiency Measurements | IEC 61683 |
| Environmental Testing | IEC 60068 -2/IEC 62093 |
| EM Compatibility (EMC) | IEC 61000-6-2, IEC 61000-6-4 & other relevant parts of IEC 61000 |
| Electrical safety | IEC 62103/ IEC 62109-1&2 |
| Anti-Islanding Protection | IEEE 1547/IEC 62116/UL 1741 or equivalent BIS Standards |

### 3. Other Sub-systems/Components:

Other subsystems/components used in the SPV power plants (Cables, Connectors, Junction Boxes, Surge Protection Devices, etc.) must also conform to the relevant International/National Standards for Electrical Safety besides that for Quality required for ensuring Expected Service Life and Weather Resistance. It is recommended that the Cables of 600-1800 Volts DC for outdoor installations should comply with the BS EN 50618:2014/2pfg 1169/08.2007 for service life expectancy of 25 years.

### 4. Authorized Test Centres

The PV modules/Power Conditioners deployed in the power plants must have valid test certificates for their qualification as per above specified IEC/BIS Standards by one of the NABL Accredited Test Centres in India. In case of module types like Thin Film and CPV/equipment for

which such Test facilities may not exist in India at present, test certificates from reputed ILAC Member Labs abroad will be acceptable.

**5. Warranty**

- The mechanical structures, electrical works and overall workmanship of the grid solar power plants must be warranted for a minimum of 5 years.
- PV modules used in grid connected solar power plants must be warranted for output wattage, which should not be less than 90% at the end of 10 years and 80% at the end of 25 years.
- The Inverters/PCUs installed in the solar power plant must have a minimum warranty for 5 years.

**6. Identification and Traceability:**

Each PV module used in the solar power project must have a RF identification tag. The following information must be mentioned in the RFID used on each module (This can be inside or outside the laminate but must be able to withstand harsh environmental conditions.)

i. Name of the manufacturer of PV Module
ii. Name of the Manufacturer of Solar cells
iii. Month and year of the manufacture (separately for solar cells and module)
iv. Country of origin (separately for solar cells and module)
v. I-V curve for the module at Standard Test Condition (1000 W/m2, AM 1.5, 25$^0$C)
vi. Wattage, Im, Vm and FF for the module
vii. Unique Serial No and Model No of the module
viii. Date and year of obtaining IEC PV module qualification certificate
ix. Name of the test lab issuing IEC certificate
x. Other relevant information on traceability of solar cells and module as per ISO 9000

SPG should be required to maintain accessibility to the list of Module IDs along with the above parametric data for each module.

**7. Performance Monitoring:**

The grid connected solar PV power plants must install necessary equipment to continuously measure solar radiation, ambient temperature, wind speed and other weather parameters and simultaneously measure the generation of DC power as well as AC power generated from the plant. The SPG shall be required to submit this data to MNRE online portal (SEDM) and/or through a report on regular basis for the entire duration of PPA. In this regard, the SPG shall also mandatorily provide access to ESCOM and MNRE or any other designated agency to the remote monitoring portal of the power plants on a 24X7 basis.

**8. Safe Disposal of Solar PV Modules:**

The SPG shall ensure that all Solar PV modules from their plant after their 'end of life' (when they become defective/non-operational/non-repairable) are disposed-off in accordance with the "e-waste (Management and Handling) Rules, 2011" notified by the Government and as revised & amended from time to time.

## SCHEDULE 3

### PERFORMANCE SECURITY
(PROFORMA OF BANK GUARANTEE)

THIS DEED OF GUARANTEE executed on this the _____day of _____ at _____ by _____ (Name of the Bank) having its Head / Registered office at _____ hereinafter referred to as "the Guarantor" which expression shall unless it be repugnant to the subject or context thereof include successors and assigns;

In favour of

**Bangalore Electricity Supply Company Limited**, a Company incorporated under the Indian Companies Act, 1956 having its registered office at K.R.Circle, Bengaluru (hereinafter shall be referred to as "**ESCOM**"), which expression shall, unless it be repugnant to the context or meaning thereof, include it's administrators, successors, and assigns);

WHEREAS

A. By the Power Purchase Agreement (the "Agreement") being entered into between ESCOM and _____, a company incorporated under the provisions of the Companies Act, 1956/____, having its registered office/permanent address at _____ (hereinafter referred as **"SPG"**), has been granted the right to development of Solar PV Power Plant, hereinafter referred to as the **"Project"** issued Letter of Award by ESCOM vide LOA no.:… , dated:……..for the Project no…….. of …… substation.

B. In terms of Article 4.4 of the Agreement, the SPG is required to furnish to ESCOM, an unconditional and irrevocable bank guarantee for an amount of INR _____/- (Rupees _____ Only) as security for due and punctual performance/discharge of its obligations under the Agreement.

At the request of the SPG, the Guarantor has agreed to provide guarantee, being these presents guaranteeing the due and punctual performance/discharge by the SPG of its obligations under the Agreement relating to the Project.

**NOW THEREFORE THIS DEED WITNESSETH AS FOLLOWS:**

Capitalized terms used herein but not defined shall have the meaning assigned to them respectively in the Agreement.

1. The Guarantor hereby irrevocably guarantees the due and punctual performance by M/s. _____ of all its obligations relating to the Project for the Period as specified in LOA.

2. The Guarantor as primary obligator shall, without demur, pay to ESCOM sum not exceeding in aggregate INR _____/- (Rupees _____ Only), within one working day of receipt of a written demand thereof from ESCOM stating that the SPG has failed to meet its performance obligations under the Agreement. The Guarantor shall not go into the veracity of any breach or failure on the part of the SPG or validity of demand so made by ESCOM and shall pay the

amount specified in the demand notwithstanding any direction to the contrary given or any dispute whatsoever raised by the SPG or any other Person. The Guarantor's obligations hereunder shall subsist until all such demands are duly met and discharged in accordance with the provisions hereof.

In order to give effect to this Guarantee, ESCOM shall be entitled to treat the Guarantor as the principal debtor. The obligations of the Guarantor shall not be affected by any variations in the terms and conditions of the Agreement or other documents or by the extension of time for performance granted to the SPG or postponement/non exercise/delayed exercise of any of its rights by ESCOM or any indulgence shown by ESCOM to the SPG and the Guarantor shall not be relieved from its obligations under this Guarantee on account of any such variation, extension, postponement, non-exercise, delayed exercise of any of its rights by ESCOM or any indulgence shown by ESCOM provided nothing contained herein shall enlarge the Guarantor's obligation hereunder.

3. This Guarantee shall be irrevocable and shall remain in full force and effect for a period of Twenty Seven (27) months from the date of issue of Letter of Award and with an additional claim period of Two (2) months unless discharged/released earlier by ESCOM in accordance with the provisions of the Agreement. The Guarantor's liability in aggregate be limited to a sum of INR _____/- (Rupees _____ Only).

4. This Guarantee shall not be affected by any change in the constitution or winding up of the SPG/the Guarantor or any absorption, merger or amalgamation of the SPG/the Guarantor with any other Person.

The Guarantor has power to issue this guarantee and discharge the obligations contemplated herein, and the undersigned is duly authorized to execute this Guarantee pursuant to the power granted under _____.

**IN WITNESS WHEREOF THE GUARANTOR HAS SET ITS HANDS HEREUNTO ON THE DAY, MONTH AND YEAR FIRST HEREINABOVE WRITTEN.**

**SIGNED AND DELIVERED**

**by _____Bank**
**by the hand of Shri _____its _____and**
**authorised official.**